

ARTICLE III. DISTRICT REGULATIONS*

DIVISION 1. GENERALLY

Sec. 59-77. Enumeration of districts created.

For the purposes of this chapter, the city is divided into the following districts: RS-4, R-0, R-1, R-2, R-2-A, R-2-B, R-3, R-3-X, R-4, R-4-X, R-5, R-MU-20, R-MU-30, R-X, B-1, B-A-1, B-2, B-A-2, B-3, B-A-3, B-4, B-A-4, B-5, B-5-T, B-7, B-8, B-8-A, B-8-G, C-MU-10, C-MU-20, C-MU-30, T-MU-30, MS-1, MS-2, MS-3, I-0, I-1, I-2, O-1, O-2, OS-1, P-1, Platte River Valley (PRV), Planned Unit Development (PUD), Cherry Creek North (CCN), Hospital (H-1-A, H-1-B, H-2), Gateway, and Overlay (OD).

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 660-05, § 1, eff. 9-16-05; Ord. No. 439-07, § 3, eff. 8-20-07)

Sec. 59-78. Location of districts.

(a) *Adoption of official map.* The digital maps created and maintained by community planning and development and published by technology service's geographic information systems (GIS) office delineating the boundaries of the various zoning districts, together with all matters and things shown on such maps, are adopted and approved, incorporated herein and made a part hereof and collectively shall constitute the official map. The official map shall be marked pursuant to a system of identification established by the department of zoning administration.

(Ord. No. 325-06, § 1, eff. 5-26-06)

***Editor's note**—Ord. No. 361-03, § 3, effective May 23, 2003, repealed article III, sections 59-77—59-81, 59-86—59-93, 59-101—59-108, 59-116—59-124, 59-131—59-139, 59-161—59-168, 59-176—59-183, 59-191—59-198, 59-206—59-228, 59-231—59-239, 59-246—59-253, 59-261—59-268, 59-276—59-285, 59-291—59-298, 59-306—59-315, 59-321—59-328, 59-336—59-343, 59-351—59-358, 59-361—59-368, 59-376—59-383, 59-391—59-398, 59-399.1—59-399.9, 59-400.1—59-400.10, 59-408—59-420, 59-430.1—59-430.16, 59-440—59-446, 59-451—59-457, 59-458.1—59-458.6, 59-466—59-473, 59-481—59-487, 59-511—59-531, 59-533.01—59-533.10, 59-534.01—59-534.11, 59-535.01—59-535.12, in its entirety and replaced it with new articles III and IV, sections 59-77—59-98, 59-101—59-111, 59-116—59-126, 59-131—59-141, 59-146—59-154, 59-161—59-174, 59-181—59-192, 59-201—59-213, 59-216—59-227, 59-231—59-253, 59-261—59-270, 59-281—59-295, 59-301—59-318, 59-321—59-338, 59-341—59-362, 59-366—59-373, 59-440—59-455, 59-511—59-520. Former article III pertained to similar material and derived from Code 1950, §§ 611.3-1—611.3-3, 612.19-2—612.19-8, 612.21-2—612.21-8, 612.3-22—612.3-28, 612.4-2—612.4-8, 612.24-2—612.24-8, 612.5-2—612.5-8, 612.29-2—612.29-8, 612.30-1—612.30-8, 612.6-2—612.6-8, 612.25-2—612.25-8, 612.7-2—612.7-10, 612.26-2—612.26-8, 612.8-2—612.8-10, 612.27-2—612.27-8, 612.9-2—612.9-7, 612.28-2—612.28-8, 612.10-2—612.10-7, 612.22-2—2.22-7, 612.13-5—612.13-8, 612.17-2—612.17-7, 612.23-2—612.23-6, 612.16-2—612.16-7, 612.33-1—612.33-9, as amended. See the Code Comparative Table for a detailed list of ordinances amending former article III.

(b) *Amendments to official map.* All amendments to the official map shall be listed in the order adopted in a separate register maintained in and kept current by the department of zoning administration.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-79. Necessity for district designation.

It is the intent of this chapter that all land within the boundaries of the city shall be located within one (1) of the aforesaid zoning districts, provided, however, that nothing herein prohibits one (1) or more overlay districts to be used in conjunction with another of the enumerated districts. It is the further intent of this chapter that no land within the boundaries of the city shall be without a zoning district designation. If for any reason any land within the boundaries of the city shall be determined not to be within one (1) of the aforesaid districts or shall be determined not to validly bear one (1) of the aforesaid zoning designations, whether such determination results from annexation, from judicial declaration or from any other reason or cause, then and in that event no permits shall be issued for the erection or alteration of any structure or structures within the area found wanting in classification until the area has been examined by council and a zoning classification enacted and established therefor. A zoning classification shall be established promptly and within a reasonable period of time; provided, however, that if a zoning classification is not established within ninety (90) days from the date on which an area is determined to be in want of a classification, any use which is authorized as a use by right in any district shall be permitted until such time as a zoning classification is established.

(Ord. No. 361-03, § 3, eff. 5-23-03)

DIVISION 2. USES ALLOWED IN ALL DISTRICTS UNLESS RESTRICTED BY SPECIAL LIMITATIONS

Sec. 59-80. Generally.

This division applies to uses allowed in all districts, unless otherwise restricted.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-81. Temporary structures, yards or uses related to construction activities.

(a) *Building or yard for construction materials.*

- (1) Upon application to and issuance by the department of zoning administration of a permit therefor, a temporary building or yard for construction materials, which is the storage of equipment and/or excavated materials, both incidental and necessary to a construction project, may be operated in all districts except the Platte River Valley District (PRV), where special limitations apply, subject to the following limitations. Each permit shall specify the location of the building and/or yard and the location of the permitted operation. Construction materials and/or equipment and/or excavated materials shall be stored a minimum of one hundred (100) feet from a residential use

within a residential structure. This spacing requirement may be reduced if concurrence is obtained from the residents living on zone lots within one hundred (100) feet of and abutting to the proposed site. Such materials and/or equipment shall be screened from the view of abutting residents to the maximum extent possible as determined by the zoning administrator; providing, however that no screening fence or

wall shall be required that is taller than eight (8) feet. Such materials shall be piled no higher than twenty (20) feet above grade and any piles above four (4) feet in height shall be protected by a seven (7) foot high security fence with controlled access. A temporary building shall comply with the building setback requirements of the zone district in which it is located.

- (2) Applicants shall notify abutting property owners, residents and/or business operators regarding the proposed use and shall provide zoning administration with evidence of such notification. If the project involves a major amount of construction within the public right-of-way, the applicant shall submit to the administration a copy of the public coordination plan as required by the public works department. Every such permit shall be valid for a period of not more than twelve (12) calendar months and shall not be renewed for more than three (3) successive periods at the same location; however, site cleanup shall be completed within thirty (30) days after completion of the project, regardless of the length of the permit. Need not be enclosed.

(b) *Fence for demolition or construction work.* Notwithstanding other limitations on fence heights in setback areas, a six (6) foot high security fence may be installed around the boundary of a zone lot where some type of demolition or construction is to occur. Each permit shall be valid for six (6) months and shall not be renewed for more than two (2) successive periods.

(c) *Noncommercial concrete batching plant, both incidental and necessary to construction in the zoning district.* Each permit shall specify the location of the plant and the area, within the same zone district, of the permitted operation, no part of which area shall be a distance of more than two (2) miles from the plant. Each such permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than six (6) successive periods at the same location. These plants are not permitted in the RS-4, R-0, R-X or B-4 zone districts.

(d) *Temporary construction office needed for a construction project.* Each permit shall be valid for six (6) months and shall not be renewed for more than two (2) successive periods.

(e) *Concrete, asphalt, and rock crushing facility.*

- (1) Upon application to and issuance by the department of zoning administration of a permit therefor, a concrete, asphalt, and rock crushing facility both incidental and necessary to a construction or demolition project, may be operated in all districts.
- (2) Equipment and/or excavated materials shall be stored a minimum of one hundred (100) feet from a residential use within a residential structure. This spacing requirement may be reduced if concurrence is obtained from the residents living on zone lots within one hundred (100) feet of and abutting the proposed site. Such materials and/or equipment shall be screened from the view of abutting residents to the maximum extent possible as determined by the zoning administrator; providing, however, that no screening fence or wall shall be required in excess of eight (8) feet in height. Such materials shall be piled no higher than twenty (20) feet above grade and any piles

above four (4) feet in height shall be protected by a seven-foot high security fence with controlled access. Any temporary buildings shall comply with the building setback requirements of the zone district in which they are located.

- (3) Applicants shall notify abutting property owners, residents and/or business operators regarding the proposed use and shall provide zoning administration with evidence of such notification. If the project involves a major amount of demolition or construction within the public right-of-way, the applicant shall submit to the zoning administration a copy of the public coordination plan as required by the public works department.
- (4) Each permit shall be valid for a period of not more than twelve (12) calendar months and shall not be renewed for more than ten (10) successive periods at the same location.
- (5) Site cleanup, shall be completed within thirty (30) days after completion of the project, regardless of the length of the permit.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-82. Residential care uses.

(a) Residential care uses, large or small, may be established in all zone districts unless limited by the special requirements of sections 59-82(d)(4) and (5) and 59-82(e), upon review and approval according to the procedures and criteria described herein.

(b) Statement of intent: The intent of this section is as follows:

- (1) To develop zoning regulations applicable to housing for special populations that are humane, equitable and enforceable through the regulations of institutions and facilities only, and not individuals;
- (2) To support and reinforce the viability and continuation of neighborhoods and communities that provide healthy environments for all their residents;
- (3) To prevent the "institutionalization" of residential neighborhoods by concentrating residential care uses so as to allow all residents, including the special populations, to reap the benefits of residential surroundings;
- (4) To increase locational opportunities for critically needed residential care facilities, thereby helping to integrate special populations into the mainstream of society;
- (5) To comply with the principles, policies and regulations of federal and state fair housing legislation;
- (6) To establish an ongoing, effective process of communication between local neighborhood residents, the operators of residential care facilities and city agencies which regulate such facilities;
- (7) To encourage and coordinate the use of common categories and definitions of residential care facilities for special populations by the regulatory city agencies, as well as by all involved licensing agencies;

- (8) To promote the dispersing of facilities and beds for special populations thereby preventing individuals from being forced into neighborhoods with concentrations of treatment facilities and beds and thus perpetuating isolation resulting from institutionalization.
- (c) Residential care use, small.
- (1) Upon the submittal of a completed application for a small residential care use, the zoning administrator shall, within five (5) days of receipt of the completed application, send the application and the name, address and telephone number of a staff member of the applicant and the operator, to those neighborhood organizations registered according to section 12-94, whose boundaries encompass or are within seven hundred (700) feet of the proposed residential care use, to the appropriate city council members and to city agencies as provided for in section 59-82(d)(2) below.
 - (2) Interested persons may submit written comments to the zoning administrator within forty-five (45) days of receipt of the application by the city. Additional time for comment, not to exceed ten (10) days, may be granted by the zoning administrator upon a showing of good cause. If requested within twenty (20) days of receipt by the city of the completed application by an appropriate city council member or the registered neighborhood organization, the zoning administrator shall facilitate a meeting among the council member, officers of the registered neighborhood organization, the applicant and the operator to discuss the application. The meeting shall be held prior to expiration of the original forty-five-day comment period.
 - (3) The city agencies shall evaluate the application on the basis of the criteria listed in this section 59-82(c)(3), and shall submit recommendations to the zoning administrator no later than forty-five (45) days after receipt of the application by the city. If no recommendations are received from the city agencies within forty-five (45) days, the recommendations shall be considered to be favorable.
 - (4) Within fifteen (15) days after receipt of the recommendation, the zoning administrator shall issue, issue with conditions, or deny the permit after consideration of the application, city agency recommendations, comments received during the comment period and the following criteria:
 - a. That the applicant is the owner or has the written approval of the owner of the property;
 - b. That the applicant and the operator have obtained or will obtain upon granting of the permit any licenses or certifications required by the state and/or the city;
 - c. That there is adequate parking for the proposed use;
 - d. That any proposed exterior alterations or additions do not alter the character of the surrounding neighborhood;
 - e. That locating the proposed use in the neighborhood shall not substantially or permanently injure the appropriate use of nearby conforming property, or shall

not cause or add to the institutionalization of residential neighborhoods which would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.

- (5) Upon issuance of a permit for a small residential care use, the applicant and the operator shall only be required to comply with sections 59-82(d)(4)b., 59-82(d)(4)c., 59-82(d)(4)d., 59-82(e)(1), 59-82(e)(2), 59-82(e)(4), 59-82(e)(5) and 59-82(e)(7).
 - (6) No conditions on the number of staff may be placed in the permit for transitional housing except for a condition requiring at least one (1) staff person on-site. Notice of the decision of the zoning administrator shall be sent to the applicant, appropriate city council members, appropriate registered neighborhood organizations and other interested parties. Within thirty (30) days after occupying the structure, the operator shall notify all neighbors within two hundred (200) feet of the facility that the facility has opened and the name and telephone number of a staff member of the operator designated as a contact person.
- (d) Residential care use, large.
- (1) Application and neighborhood notification.
 - a. *Application.* Prior to filing an application for a large residential care use, the applicant shall meet with the department of zoning administration to discuss procedures and requirements. Applications shall be submitted in the format required by the department of zoning administration.
 - b. *Notice.* Within ten (10) days of receipt of a completed application for a large residential care use, the zoning administrator shall cause an informational packet to be sent to the appropriate city council members and those neighborhood organizations registered according to section 12-94, whose boundaries encompass or are within seven hundred (700) feet of the proposed use. Such informational packet shall include a copy of the completed application; a detailed explanation of applicant's and operator's experience; the facility's operational plan as set forth by the operator; the name, address and telephone number of a staff member of the applicant and operator designated as the contact person; a copy of the residential care use handbook; a summary of licensing procedures required for the proposed facility; notice of the time and place of the informational neighborhood meeting; and information concerning when and where written comments may be submitted.
 - c. *Residential care use handbook.* The residential care use handbook shall be prepared by the department of zoning administration, and the cost of its preparation and reproduction shall be covered by the permit fees paid by applicants for residential care uses. The handbook shall fully and carefully describe the rights of the neighbors. It shall explain the rights, responsibilities, and accountability of the city, the applicant, the operator, the residents of the facility, the registered neighborhood organization and the neighbors. It shall clearly explain the application process, the purpose and procedure for the

neighborhood informational meeting, and the process for endorsing the terms of this section of the Code and for obtaining a permit. The handbook shall explain the procedure by which neighbors may file complaints and the procedure by which the city must handle complaints.

- d. *Meeting.* The department of zoning administration shall ensure that the informational neighborhood meeting is held between twenty-five (25) and forty-five (45) days after the filing of the completed application. At least ten (10) days prior to the informational neighborhood meeting, the department of zoning administration shall cause a notice of such meeting to be posted on the property. At least seven (7) days prior to such meeting, the applicant shall distribute written notices about the meeting to residents, businesses, and owners of property within two hundred (200) feet of the proposed facility. Residents of multi-unit dwellings may be notified by posting the meeting notice in a prominent communal location with the approval of the building manager. The meeting shall be held at an appropriate location approved by the department of zoning administration. The city shall facilitate the meeting. The purpose of the meeting is for the applicant and the operator to provide information and answer questions, and to obtain comments and information from interested parties concerning the proposed facility and its operation prior to determining whether the proposed facility complies with the requirements of this section of the Code. The informational neighborhood meeting shall be attended by appropriate city staff, the applicant and the operator. The applicant and the operator shall each designate a qualified individual to receive questions and concerns from interested neighbors and shall establish a process, if requested by nearby residents and businesses, which allows for initial and continuing exchange of information and comment regarding the operation of the facility.
 - e. *Timing.* Following the submittal of the completed application, a minimum of fifty-five (55) days shall transpire during which no permit shall be approved or denied, unless the zoning administrator determines that all the required review, including the neighborhood response, is completed prior to fifty-five (55) days.
- (2) *Review by the city.* Upon receipt of a completed application for a large residential care use, the zoning administrator shall forward the application to appropriate city agencies including the planning office. Such city agencies shall evaluate the proposal on the basis of the criteria listed in section 59-82(d)(3) below and shall submit to the zoning administrator no later than forty-five (45) days after the receipt of the application by the city. If no recommendations are received within forty-five (45) days the recommendations shall be deemed favorable.
 - (3) *Permit.* Within fifteen (15) days after the receipt of the city agencies' recommendations, the zoning administrator shall issue, issue with conditions, or deny the permit after consideration of the application, information received from the informational

meeting, any written comments submitted and the agencies' recommendations. No permit for a large residential care use shall be approved unless the zoning administrator finds that all of the following criteria are satisfied:

- a. That the applicant is the owner or has written approval of the owner of the property;
- b. That the applicant and the owner have obtained or will obtain upon granting of the permit any licenses or certification required by the state and/or the city;
- c. That the program and operational plan will be approved by a licensing agency appropriate to the special population being served in the facility;
- d. That the applicant and the operator will provide adequate measures for safeguarding the public and the facility residents. Such measures shall be appropriate to the special population including intake screening, supervision and security;
- e. That the proposed use will not substantially or permanently injure the appropriate use of nearby conforming property;
- f. That the number of beds in the proposed facility, in combination with the number of existing correctional institution and residential care use beds within the affected area, regardless of compliance with the spacing and density requirements set forth in section 59-82(d)(4)a. below, shall not substantially or permanently injure the neighborhood or shall not cause or add to the institutionalization of residential neighborhoods which would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.
- g. That the size and architectural style of new structures or additions to existing structures located in a residential zone shall not be substantially dissimilar from other structures in the surrounding residential neighborhood and shall comply with all other requirements of the district in which it is located;
- h. That the applicant and the operator will adequately maintain the building and grounds;
- i. That the procedural steps set forth in section 59-82(d)(1) and 59-82(d)(2) above have been satisfied and that a report on the informational meeting, confirming the attendance of the qualified individual representing the applicant or operator and containing the comments of the public, has been transmitted to the zoning administrator;
- j. That all applicable requirements of section 59-82 have been satisfied.

The decision of the zoning administrator shall be sent to the applicant, the appropriate city council members, appropriate registered neighborhood organizations, and other interested parties.

- (4) *Spacing, density, site and other requirements.* All proposed large residential care uses shall satisfy the following minimum requirements unless specifically exempt by other

provisions herein. Provided, however, that the zoning administrator may approve or deny the permit for a large residential care use in a location in violation of the spacing and density regulations of subsections 59-82(d)(4)a.1. and 59-82(d)(4)a.2. below upon a determination that the spacing violation is less than ten (10) percent of the required spacing and that locating the proposed use will not substantially or permanently injure the neighborhood. Provided, further, that the administrator may require up to two hundred (200) feet of additional spacing between large residential care uses in impacted neighborhoods. Impacted neighborhoods for the purpose of this subsection shall be those neighborhoods that have more residential care uses within their boundaries than the city-wide average number per neighborhood. The department of zoning administration shall keep records of those neighborhoods that are impacted. All existing large residential care uses, any existing PUD zone district used for a large residential care use and any church containing a shelter which exceeds the limits of section 59-2(66) shall be counted when the following spacing and density requirements are applied:

- a. *Spacing and density regulations.*
 1. A large residential care use shall be a minimum of two thousand (2,000) feet from another such use; and
 2. No more than two (2) other such uses shall exist within a four thousand (4,000) foot radius measured from the proposed use;
 - b. *Minimum lot dimensions.* The proposed use shall have a minimum lot size of six thousand (6,000) square feet and a minimum lot width of fifty (50) feet.
 - c. *Required off-street parking.* The proposed use shall provide one (1) off-street parking space for each member of the staff on duty unless the zoning administrator modifies this requirement after consideration of all pertinent factors including problems of parking congestion on abutting streets and physical constraints on the ability to comply.
 - d. *Limitations on external effects.* Such use shall comply with the limitations on external effects as established for uses by right in the district in which it is located.
- (5) *Special requirements.* Certain large residential care uses shall be subject to the following special requirements. In case of conflict with the requirements of section 59-82(d)(4) above, the provisions of this subsection shall apply:
- a. *Large residential care use:* In the RS-4, R-0, R-1, R-X, R-2, R-2-A and R-2-B zone districts, large residential care uses, other than a community corrections facility or a shelter for the homeless, shall be located only in a structure existing on May 24, 1993, and shall be limited to a maximum number of twenty (20) residents. Such structure shall not be enlarged as long as it is used for a large residential care use. In the R-3, R-3-X and R-4 zone districts, large residential care uses, other than a community corrections facility or a shelter for the homeless, shall be limited to a maximum of forty (40) residents.

b. *Community corrections facility.*

1. Permitted location. Community corrections facilities (hereinafter in this subsection 59-82(d)(5)b. "facilities" or "facility") shall be allowed only in the B-5, B-5-T, B-7, PRV, I-0, I-1 and I-2 zone districts; and shall be located more than:
 - i. Fifteen hundred (1,500) feet from a school meeting all requirements of the compulsory education laws of the state;
 - ii. Fifteen hundred (1,500) feet from a residential zone district; and
 - iii. One thousand (1,000) feet from any liquor store, any drugstore licensed to sell package liquors, or any retail package liquor business.
(Ord. No. 439-07, § 4, eff. 8-20-07; Ord. No. 256-08, § 1, eff. 6-6-08)
2. The proposed number of residents shall not exceed one (1) person per fifty (50) square feet of gross floor area in sleeping areas with a maximum of forty (40) residents in the permitted zone districts; provided, however, if a proposed facility is located in the I-1 or I-2 zone districts, such facility may have up to sixty (60) residents, provided further, however, that if such facility is located in an I-1 or I-2 zone district and operated by the manager of safety, or under contract to the manager of safety, such facility may have up to one hundred and twenty (120) residents, except that the existing facility located at 570 West 44th Avenue may have up to ninety (90) residents. After April 30, 2008, no new facility shall begin operation until May 1, 2018.
(Ord. No. 256-08, § 1, eff. 6-6-08)
3. The expansion of any existing community corrections facility to more than sixty (60) residents shall require that the procedures and notification requirements of subsection 59-82(d)(1), Application and neighborhood notification, be followed.
(Ord. No. 256-08, § 1, eff. 6-6-08)

c. *Shelter for the homeless.*

1. Permitted location. Shelters for the homeless shall be allowed only in the C-MU-20, R-MU-30, C-MU-30, T-MU-30, R-3, R-4, R-5, B-A-1, B-3, B-A-3, B-4, B-5, B-5-T, B-7, B-8, MS-1, MS-2, MS-3, I-0, I-1, I-2 and O-1 zone districts.
(Ord. No. 660-05, § 2, eff. 9-16-05; Ord. No. 439-07, § 5, eff. 8-20-07)
2. Number of beds. The number of beds in the shelter shall not exceed two hundred (200). Notwithstanding the preceding sentence, for shelters having a zoning permit as of January 1, 2005 allowing two hundred (200) beds or more, the maximum number of beds in the shelter shall not exceed three hundred and fifty (350). There shall be no more than nine hundred and fifty (950) beds in permanent homeless shelters in any council district.

3. Shelters allowed in churches or buildings owned by nonprofit corporations or governmental entities.
 - (i) Shelters operated within and by a church need not comply with the provisions of this subsection provided the following limitation is satisfied. Such shelter may be operated for up to one hundred twenty (120) days in either consecutive or nonconsecutive order per calendar year with any number of residents, or it may be operated throughout the entire year with one (1) of the following: a maximum of eight (8) residents or any number of persons bearing to each other a relationship as defined in section 59-2(96), single unit dwelling. If such limitation is exceeded, the shelter must comply only with the requirements of section 59-82(d)(4)a., spacing and density regulations, and need not comply with any other requirements of section 59-82, residential care uses.
 - ii. Temporary shelters operated in buildings owned by nonprofit corporations or by governmental entities need not comply with the provisions of this subsection provided the following limitation is satisfied. The

zoning administrator shall have the power to issue a cease and desist order or otherwise close temporary shelters not meeting these limitations:

- I. Such temporary shelter may be operated for up to one hundred and twenty (120) days in either consecutive or nonconsecutive order per calendar year with a maximum of one hundred (100) residents. If such limitation is exceeded, the temporary shelter must comply only with the requirements of section 59-82(d)(4)a., spacing and density regulations, and need not comply with any other requirements of section 59-82, residential care uses.
 - II. Prior to opening a temporary shelter in buildings owned by non-profit corporations or by governmental entities, the operator of the temporary shelter shall submit to the zoning administrator evidence (A) that the Denver Department of Human Services is involved in the proposed temporary shelter; (B) that a public meeting relating to opening the temporary shelter was held; (C) that at least seven (7) days prior to the public meeting, notice of such public meeting was given to those neighborhood organizations registered according to section 12-94 whose boundaries encompass or are within seven hundred (700) feet of the proposed use and to the city council member in which the proposed temporary shelter will be located, and flyers announcing the public meeting were distributed at least three (3) days prior to such public meeting to all properties within three (3) blocks of the proposed temporary shelter; and (D) that a community oversight committee has been created, consisting of the councilmember in whose district the proposed temporary shelter is located and at least four (4) persons who reside within one thousand five hundred (1,500) feet of the proposed temporary shelter, to address neighborhood issues relating to the ongoing operations of the temporary shelter. The community oversight committee may encourage appropriate parties to enter into a community agreement to address such issues.
4. Spacing required from a school. Proposed shelters for the homeless shall be located more than five hundred (500) feet from a school meeting all the requirements of the compulsory education laws of the state.
 5. Applications for a permit for a shelter shall contain information addressing the following matters:
 - i. Maximum resident capacity;
 - ii. Characteristics of the client group;
 - iii. Accessibility of the site to other services and facilities which are needed by residents of the proposed shelters;

- iv. General hours of operation;
 - v. Services provided;
 - vi. The adequacy of off-street parking to serve the staff and residents, such as parking to be located either on the site and/or nearby sites;
 - vii. If a new building is to be constructed, the compatibility of its proposed architectural characteristics and site design to the surrounding neighborhood;
 - viii. The availability of restroom facilities serving the shelter residents while the shelter is closed including, but not limited to, restroom facilities provided by the city;
 - ix. The placement and supervision of waiting areas so that the operation of the shelter should not normally create obstructions or problems in the use of adjacent public rights-of-way;
 - x. Evidence that the proposed shelter for the homeless will comply with the limitations on external effects as established for uses by right in the district in which it is to be located; and
 - xi. Other characteristics of the operation which the applicant may deem to be of significance.
6. No permit shall be approved unless the zoning administrator finds that the proposed shelter will not substantially or permanently injure the appropriate use of conforming residential properties located within five hundred (500) feet of the proposed use. Evidence of such injury shall clearly establish the anticipated specific problems attributed to residents of the proposed shelter for the homeless while in or around the shelter as distinct from the general problems attributed to persons using or passing through the subject area.
 7. Except for an increase in the number of beds up to three hundred and fifty (350), pursuant to section 59-82(d)(5)c.2., and notwithstanding the restriction of section 59-82(e)(4) and 59-82(e)(5) below, the permanent increase in the number of shelter residents or in the amount of floor area of such shelter exceeding ten (10) percent shall require the approval of a use permit according to the procedure established in section 59-82(d) above. In reviewing requests for such increases, the review committee and the zoning administrator shall consider the matters listed in section 59-82(d) above.
 8. The zoning administrator has the authority to suspend the terms of this section 59-82(d)(5)c. in emergency, life threatening situations as defined by rules and regulations promulgated by the zoning administrator.
 9. All structures occupied by a homeless shelter shall comply with all Denver building code, zoning code and other regulations.

(e) *Administration.* All residential care uses shall comply with the following provisions, except as otherwise provided for herein:

- (1) *Residential care use / neighborhood communication and enforcement.* The applicant or operator of a residential care use shall designate a staff member who shall be available on a continuous basis to receive questions and concerns from interested neighbors. Any issues not satisfactorily resolved through the applicant and facility staff shall be reported to the zoning administrator. The zoning administrator shall promptly notify all registered neighborhood organizations whose boundaries encompass the facility, the applicant, and the facility of the complaint; promptly investigate any complaint; and, if necessary, facilitate a meeting with the applicant, the operator and the complainant no later than forty-five (45) days after receipt of the complaint. The department of zoning administration shall notify the applicant, the operator and the complainant of the result of the investigation and any resolution of the issue. If the issue cannot be resolved at the meeting and if the complaint involves a violation of this section of the Code or any conditions placed on the permit, then the zoning administrator shall either issue a cease and desist order, issue a summons and complaint into court, or take other appropriate action. The zoning administrator shall also forward the complaint to the appropriate licensing and other governmental agencies. The results of the agency investigations shall be forwarded to the zoning administrator, the complainant and the registered neighborhood organization.
- (2) *Biennial renewal of the permit.* Every permit for a residential care use authorized herein shall be effective for a period of two (2) years from the date of authorization, such permit to be renewable biennially by the department of zoning administration. A notice shall be sent, as provided under section 12-94, registration and notification of neighborhood organizations, and appropriate city council members sixty (60) days prior to the renewal date. Such notification shall solicit comments regarding the operation of the facility. If the zoning administrator determines that the above notification will cause a danger to residents in certain care situations, the zoning administrator may waive the notification requirement. The renewal of each permit shall be accomplished upon a finding by the zoning administrator that all conditions imposed on the use have been complied with, and that the facility will not substantially or permanently injure the appropriate use of nearby conforming property.
- (3) *Continuation of certain existing uses.*
 - a. An institution or any other use operating as a residential care use and existing as of April 1, 1993, shall be classified as a legal, nonconforming use and may continue its operation providing it has a valid zoning permit or has applied for a zoning permit by a date one hundred twenty (120) days after May 24, 1993. Such legal, nonconforming use shall be issued a permit upon compliance with section 59-82(d)(4)d., limitations on external effects, only and shall not be required to comply with any other provisions of section 59-82. This provision, however, does not apply to uses in a planned unit development zone district or to a use under adverse administrative action by the city as of April 1, 1993.

- b. Any church containing an existing shelter for the homeless as of May 24, 1993, shall notify the department of zoning administration within one hundred twenty (120) days of May 24, 1993.
- (4) Any exterior additions or exterior structural modifications which increase the gross floor area of an existing structure shall require the approval of a use permit according to the procedure established in section 59-82(d)(1) and 59-82(d)(2) above.
- (5) Any increase in the number of permitted residents shall require the approval of a use permit according to the procedure established in this section 59-82.
- (6) Any change in the type of resident of the residential care use either existing as of May 24, 1993, or approved under the provisions of this section shall meet all applicable requirements except the spacing and density requirements set forth in section 59-82(d)(4)a.
- (7) Termination.
 - a. Any of the following shall provide a basis to terminate the right to operate as a residential care use:
 - 1. Failure to comply with the conditions of this section, including the failure to obtain a permit.
 - 2. Changing one (1) type of a residential care use to another type of residential care use without complying with the requirements herein.
 - 3. The vacancy for a period of twelve (12) months of a structure or that portion of a structure occupied by a residential care use.
 - 4. Facilities which begin operations after the expiration of the one hundred twenty (120) day period following May 24, 1993, without applying for a permit, shall be terminated and the operator may not apply for a permit for that site for a period of one (1) year after such termination.
 - b. Destruction of the structure containing the use shall not terminate a nonconforming residential care use:

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 694-05, § 2, eff. 9-30-05)

Sec. 59-83. Certain power, gas and other facilities.

(a) Above-ground facilities, including high-voltage transmission lines (one hundred fifteen (115) kilovolts or more), electric substations, gas metering stations and other similar facilities are permitted as a conditional use, subject to the procedure listed below. The expansion of transmission line capacity shall not require a zoning permit provided such expansion can be accomplished within an existing right-of-way or with existing structures or poles.

(b) Notification: Upon the submittal of an application the zoning office shall notify all registered neighborhood organizations whose boundaries fall within two hundred (200) feet of the proposed facility, and all council members in whose districts the proposed facility would be

located. Such notification shall be made within ten (10) days after receipt of an application and shall solicit written comments regarding the proposed facility. Within this ten-day period the following additional actions shall be completed:

- (1) For transmission lines, the applicant shall place a notice, including a map of proposed transmission line routes, in a newspaper of general distribution.
- (2) For electric substations and similar facilities, a notice shall be posted for twenty-one (21) days on the property soliciting written comments from interested parties.

(c) Review process: The planning office shall evaluate the proposal and shall prepare a recommendation which incorporates a consideration for planning and urban design principles and the concerns of the public. Within thirty (30) days of the initial receipt of the application the planning office shall submit their recommendation to the manager of public works. The manager shall review the recommendation of the planning office and shall consider the planning and urban design principles and the concerns of the public. The manager shall advise the zoning administrator of his/her determination, and the administrator shall issue, issue with conditions or deny the zoning permit based on the manager's determination.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-84. Telecommunications facilities.

(a) The purpose of this section is to establish regulations for telecommunications facilities. The goals of this section are:

- (1) To protect residential areas and lands by minimizing adverse impacts of towers;
- (2) To encourage the location of towers in nonresidential zone districts;
- (3) To minimize the total number of towers in the community;
- (4) To encourage the joint use of new and existing tower locations;
- (5) To ensure that towers are located in areas that minimize adverse impacts;
- (6) To ensure towers and antennas are configured in a way that minimizes adverse visual impacts by careful design, appropriate siting, landscape screening, and innovative camouflaging techniques;
- (7) To enhance the ability to provide telecommunications services to the community quickly, effectively and efficiently;
- (8) To consider public health and safety of telecommunications facilities;
- (9) To avoid damage to adjacent properties from tower failure through careful engineering and locating of tower structures;
- (10) To encourage the attachment of antennas to existing structures; and
- (11) To facilitate the provision of telecommunications services throughout the city.

(b) *Applicability.* These regulations shall apply to all towers and antennas as defined, except:

- (1) Any tower, or antenna, not more than seventy (70) feet in height, owned and operated by a federally licensed amateur radio station operator or used exclusively as a receive only facility.
- (2) High tension electric transmission or distribution line support towers used as mounts for antennas not more than (12) feet in height above the highest point of the said tower shall be permitted in all zone districts and are exempt from the separation requirements contained in this section. However, the specific requirements for telecommunications support facilities in section 59-84(d)(4) shall apply.
- (3) Alternative tower structures not more than fifty (50) feet in height shall be permitted in all zone districts subject to the goals of section 59-84(a); the design review outlined in section 59-84(c)(5); the setback requirements for like structures in the zone district; and the specific requirements for telecommunications support facilities in section 59-84(d)(4). If such an alternative tower structure is in, or, as measured from the base of the tower to the nearest part of the zone district, within two hundred (200) feet of, a residential, R-MU-30, H-1-A, H-1-B, H-2, B-1, B-2, B-3, B-4 or B-8 zone district, the provisions of 59-41(b) shall apply.
- (4) The provisions of this section shall be of no force and effect in the O-2 zone district.

(c) *General requirements.*

- (1) Towers, antennas and telecommunications support facilities shall be regulated and permitted pursuant to this section and shall not be considered utilities;
- (2) Towers are allowed in nonresidential zone districts and shall:
 - a. Be considered a permitted use and the existence of another structure or use on the same zone lot shall not preclude the installation of a tower and/or telecommunications support facilities;
 - b. Comply with the regulations contained herein and the zone district regulations for permitted structures in the zone district in which it is located. The dimensions of the entire zone lot shall apply and not the dimensions of the leased parcel;
 - c. Have a diameter of not more than forty-eight (48) inches measured at the base of the tower.
- (3) Antennas not attached to a tower and their associated telecommunications support facilities may be located in any zone district on:
 - a. Any nonresidential structure; or
 - b. A multiple unit dwelling structure containing eight (8) or more dwelling units that is at least thirty-five (35) feet in height; or

- c. A residential structure other than as provided in b. above, provided any antenna is camouflaged or obscured so as to resemble architectural or natural features commonly associated with the site and district where located; and
 - d. Telecommunications support facilities shall comply with section 59-84(d)(4); and
 - e. Be considered a permitted use and the existence of another structure or use on the same zone lot shall not preclude the installation of antennas or telecommunications support facilities.
- (4) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same and the accompanying telecommunications support facilities within ninety (90) days of the issue date of the notice to remove the tower or antenna;
- (5) Antennas, towers, and alternative tower structures, their associated antennas and arrays and telecommunications support facilities shall be subject to design review and approval. Applicants may submit their designs for pre-approval subject to the same procedures outlined herein. Designs for antennas, towers, alternative tower structures, their associated antennas and arrays and telecommunications support facilities shall be submitted to the zoning administration for design review. Upon submission of a complete application for design review the zoning administration shall establish a schedule for processing the application. Design review shall be completed within thirty (30) days of the date designated in the schedule, except that the review period may be extended by an amount of time equal to any delay caused by the applicant or agreed to by the applicant. In reviewing the design of towers, the goals and requirements set forth in this section shall be considered. Within seven (7) days after completion of the design review, the zoning administrator shall approve, approve with conditions or deny the application. A reasonable design review fee shall be assessed at the time of submittal.

(d) *Specific requirements.* Towers, antennas and telecommunications support facilities, excluding alternative tower structures not more than fifty (50) feet in height (see section 59-84(b)(3)), shall meet the following requirements:

- (1) *Towers antennas and telecommunications support facilities, excluding alternative tower structures not more than fifty (50) feet in height:*
- a. The design of towers, antennas, and telecommunications support facilities shall use materials, colors, textures, screening, and landscaping that create compatibility with the natural setting and surrounding structures;
 - b. Signs shall be limited to those signs required for cautionary or advisory purposes only;
 - c. The mass of antennas or an antenna on a tower shall not exceed four hundred fifty (450) cubic feet per user, with no one (1) dimension exceeding fourteen (14) feet per user. The mass shall be determined by the appropriate volumetric

calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical or pyramidal geometric shapes encompassing the entire perimeters of the array.

- (2) *Towers (excluding alternative tower structures not more than fifty (50) feet in height (see section 59-84(b)(3)).*
- a. **Setbacks:** The minimum zone district setback requirements shall apply to all towers;
 - b. **Height:** The height and bulk of the tower shall be controlled by the district regulations of the zone district in which the tower is located but in no case shall it exceed the following maximum heights, measured from the lowest grade within ten (10) feet of the base of the tower to the highest point of the tower or any antenna attached thereto:
 1. **Single users:** Not more than seventy-five (75) feet in height;
 2. **Two or more users:** Not more than ninety (90) feet in height.
 - c. **Color:** Towers shall be finished in a neutral color to reduce visual obtrusiveness, subject to any applicable standards of the FAA.
 - d. If the tower is within two hundred (200) feet of a residential or mixed use district, the installation shall provide screening and landscaping in accordance with the following:
 1. Unless the zoning administrator finds that alternative screening is appropriate to the character of the district context and/or landscaping, including existing vegetation, topography or structures; screening shall be provided in one (1) of the following two (2) ways:
 - i. A solid view-obscuring not less than six (6) feet in height and landscaped in accordance with the landscaping requirement of 59-84(d)(2)d.2.; or
 - ii. A finished masonry wall of similar material and/or finish to the primary structures on the site or adjacent properties, in which case landscaping shall not be required.
 2. Except as provided in 59-84(d)(2)d.1. above, landscaping shall be provided in accordance with the following requirements:
 - i. The area around the tower shall be landscaped with a buffer of plant materials that effectively screens the view of the tower base from property used for residences. The standard buffer shall consist of a landscaped strip at least five (5) feet wide outside the perimeter of the fence described in 59-84(d)(2)d.1., shall be composed of at least fifty (50) percent coniferous or broadleaf evergreens that will reach at least five (5) feet in height at maturity and shall provide for and maintain minimal landscaping on the remainder of the zone lot;

- ii. In locations where the visual impact of the tower would be minimal, or where landscaping would not reduce or alleviate the visual impact of the tower, the landscaping requirement may be reduced or waived;
 - iii. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. For towers located on large, wooded lots, natural growth around the property perimeter may be considered a sufficient buffer;
- e. *Lighting:* Towers shall not be artificially illuminated unless required by the FAA, other governmental regulation, other governmental regulation or as specified in the next two sentences. Towers that are used as flagpoles may be lit at night if they are flying the national flag. Ground level security lighting not more than twenty (20) feet in height may be permitted if it does not project glare onto other properties and is designed to minimize impacts on adjacent properties.
- f. *Separation requirements.* The following separation requirements shall apply to all towers:
- 1. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in table 1, except as otherwise provided in table 1. If the requested separation distance is greater than or equal to the distance in this section 59-84(d)(2)f.1. the zoning administrator can proceed to process the application hereunder. If the requested separation distance is less than the separation distances provided in table 1, but more than or equal to one hundred (100) feet, the provisions of section 59-84(h) below shall apply.
(Ord. No. 459-06, § 5, eff. 7-21-06)

Table 1. Tower separation from certain uses and zones.

| <i>Off-site Use / Designated Area</i> | <i>Separation Distance</i> |
|-------------------------------------------------------|------------------------------------------------------|
| Single or two unit dwellings | 500 feet or 3 times the height whichever is greater |
| Vacant platted or unplatted residentially zoned land | 500 feet or 3 times the height whichever is greater |
| Existing multi-family residential units | 500 feet or the height of tower whichever is greater |
| Parks | 1000 feet |
| Nonresidentially zoned lands with nonresidential uses | None; only setbacks apply |

- 2. Separation distances between towers shall be maintained and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the base of the proposed tower, pursuant to a site plan, of the proposed tower. If the requested tower separation

distance is greater than or equal to the distance in this section 59-84(d)(2)f.2. the zoning administrator can proceed to process the application hereunder. If the requested tower separation is less than the separation distance as provided in Table 2, but more than or equal to five hundred (500) feet, the provisions of section 59-84(h), below shall apply.

Table 2. Minimum Separation between Towers (in feet)

Existing Towers—Types

| | <i>Lattice</i> | <i>Guyed</i> | <i>Monopole 75 feet in height or greater</i> | <i>Monopole not more than 75 feet in height or greater</i> |
|-----------------------------------------------------|----------------|--------------|----------------------------------------------|------------------------------------------------------------|
| Lattice | 2,500 | 2,500 | 1,500 | 1,000 |
| Guyed | 2,500 | 2,500 | 1,500 | 1,000 |
| Monopole 75 feet in height or greater | 1,500 | 1,500 | 1,500 | 1,000 |
| Monopole not more than 75 feet in height or greater | 1,000 | 1,000 | 1,000 | 1,000 |

- (3) *Height and bulk plane of antennas installed on a structure other than a tower:* Height and bulk plane of the antenna shall be controlled by the district regulations of the zone district in which it is located, provided that antennas, together with any support structure built to hold, camouflage or conceal them, may extend up to fourteen (14) feet beyond the highest point of the building or structure to which attached, provided further that antennas for emergency telecommunication services may extend up to twenty (20) feet beyond the highest point of the building or structure to which attached;
(Ord. No. 364-06, § 3, eff. 6-16-06)

- (4) *Telecommunications support facilities:*
 - a. Telecommunications support facilities may be located on the roof of a building.
 - b. If located on a building, telecommunications support facilities shall be a neutral color that is identical to, or closely compatible with, the color of the supporting structure;
 - c. Telecommunications support facilities shall not contain more than three hundred fifty (350) square feet of gross floor area per user or be more than twelve (12) feet in height, measured from the roof upon which the facility is placed to the highest part of the facility, or if on the ground, measured as defined in section 59-2(52), building height measurement;

- d. If the telecommunications support facilities are located at grade, they shall comply with all the same requirements as those for towers in the preceding section 59-84(d)(2)d.

(e) *Application for towers (not applicable to alternative tower structures not over fifty (50) feet in height per section 59-84(b)(3):*

- (1) Every applicant for a tower shall provide the zoning administrator with:
 - a. The first application for a permit by a provider or an applicant for a provider shall include an inventory of all of that provider's existing towers, antennas, or sites approved for towers or antennas, that are either within the city or within one thousand (1,000) feet of the border thereof and the provider shall also comply with the inventory and tracking requirement of this section;
 - b. The identification of its backhaul providers, updated on at least an annual basis, and the method of providing backhaul, wired or wireless;
 - c. A vicinity map drawn to scale showing adjacent land uses that require separation and zoning within one thousand (1,000) feet; including those in adjacent municipalities;
 - d. Upon the request of the zoning administrator, the director of the office of telecommunications or a member of city council, or their designees, the telecommunications provider shall meet with the requesting official and provide them with information concerning the proposed system design, which information shall not be reduced to writing and shall be treated as a confidential trade secret;
 - e. A scaled set of plans containing the following information:
 1. Location and legal description of the proposed site;
 2. Type and height of the proposed tower;
 3. On-site land uses and zoning;
 4. Adjacent roadways;
 5. Proposed means of access;
 6. Setbacks from property lines;
 7. Architectural elevation drawings of the proposed tower and any other telecommunications support facilities;
 8. Site topography;
 9. Parking;
 10. A landscape plan showing specific landscape materials;
 11. The method of fencing, finished color and, if applicable, the method of camouflage and illumination.
 - f. An affidavit from the owner of the property acknowledging that the owner of the property is responsible for the removal of a tower, and the associated telecommunications support facilities, that are abandoned or unused for a period of twelve (12) months.
- (2) Every applicant for an antenna shall provide the zoning administrator with the information required in section 59-84(e)(1)e, where applicable.

- (3) The zoning administrator may share information, except for the confidential proposed system design, with other applicants applying for administrative approvals or use exceptions under this section or other organizations seeking to locate towers/antennas in the city, except that the zoning administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(f) *Inventory and tracking:* The zoning administrator shall compile a list of towers and maintain and update the same from information furnished by all service providers. The zoning administrator shall issue a registration number to be affixed to and displayed on each tower. Reasonable fee as determined by the zoning administrator shall be assessed for an initial registration and annual inspection fees.

(g) *Collocation:*

- (1) Antennas may be attached to an existing tower which is in compliance with all requirements of this section 59-84 and the requirements of section 59-84(d)(2)f.2. and Table 2 shall not apply, as long as the height of the tower is not increased. The new antenna and any telecommunications support facilities must comply with all applicable regulations in sections 59-84(d)1, and 59-84(d)2. A tower may be modified or reconstructed to accommodate the collocation of additional antennas under the following conditions:
 - a. The tower shall be the same type as the existing tower, unless the tower is replaced by a monopole not more than forty-eight (48) inches in diameter, provided, however that an existing alternative tower structure not over fifty (50) feet in height may only be replaced by another alternative tower structure not over fifty (50) feet in height;
 - b. An existing tower, to accommodate the collocation of an additional antenna, may be modified or rebuilt only once to a taller height, not to exceed thirty (30) feet more than the tower's existing height, provided, however that this subsection b. shall not apply to alternative tower structures not over fifty (50) feet in height;
 - c. The additional height referred to in subsection 59-84(g)(1)b. shall not require an additional distance separation as set forth in table 2 of section 59-84(d)(2)f.2. The tower's pre-modification height shall be used to calculate distance separations;
 - d. The existing tower shall comply with the separations from certain uses and zones in table 1 of section 59-84(d)(2)f.1.;
 - e. If a tower is replaced to accommodate collocation, only one (1) tower may remain on the zone lot;
 - f. If a tower is relocated on-site in compliance with all setback requirements, and within a twenty-five (25) feet radius of its existing location, under the terms and conditions of this section, it shall not be deemed a violation of the separation requirements of section 59-84(d)(2)f.

- (2) Antennas may be attached to an existing tower which is not in compliance with all the requirements of this section 59-84, and said tower may be rebuilt, reconstructed or modified, provided:
 - a. The tower as rebuilt, reconstructed or modified is no taller than the existing tower;
 - b. The tower is of the same type as the existing tower, unless the tower is replaced by a monopole tower not more than forty-eight (48) inches in diameter or a tower that meets the definition of an alternative tower structure;
 - c. The tower with the attached additional antenna as modified must meet the requirements of subsection 59-84(d)(1) and subsection 59-84(d)(4).
- (3) Antennas may be attached to an existing tower which is accessory to a police station, fire station or hospital, and said tower may be rebuilt, reconstructed or modified to a height not to exceed one hundred and thirty-five (135) feet. No part of any collocated antenna shall be more than ninety (90) feet above grade.

(Ord. No. 839-06, § 1, eff. 12-26-06)

(Ord. No. 664-04, § 1, eff. 9-24-04)

(h) *Separation allowances.* The following provisions shall govern applications where the requested separations are less than the minimum requirements in Tables 1 and 2 of sections 59-84(d)(2)f.1. and 59-84(d)(2)f.2. above, but greater than or equal to one hundred (100) feet for section 59-84(d)(2)f.1. and greater than or equal to five hundred (500) feet for section 59-84(d)(2)f.2. This subsection (h) does not apply to alternative tower structures not over fifty (50) feet in height.

- (1) *Submittal requirements:* In addition to the application requirements of subsection 59-84(e) and a reasonable review fee, the zoning administrator may require that the applicant submit for review the following information or items if applicable:
 - a. Legal description of the zone lot and leased parcel (if applicable);
 - b. The setback distance between the base of the proposed tower and the nearest residential dwelling unit, platted residentially zoned properties, and unplatted residentially zoned properties;
 - c. The separation distance from other towers located within one thousand (1,000) feet of the base of the proposed tower shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known;
 - d. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users;
 - e. A description of the suitability of the use of existing towers, other structures, locations or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower;

- f. Such other information as is deemed by the zoning administrator to be necessary to render a determination and;
- (2) *Notification and certification requirements:* Using a notice form supplied by the zoning administrator, the applicant shall promptly notify all property owners within five hundred (500) feet of the proposed tower and registered neighborhood organizations whose boundaries contain or are within two hundred (200) feet of the proposed tower as required in section 12-96 of the Revised Municipal Code. Such notice shall indicate the boundaries of the property included in the application, shall explain the character and dimensions of the proposed telecommunication tower, the nature and applicable separation distances and shall give directions for submitting written comments. The said notice shall also include notice of a date not less than thirty (30) days after the delivery of the notice which has been set by the zoning administrator for consideration of the application and any written comments related thereto and that a public hearing may be requested. The applicant shall also file a statement with the zoning administrator stating how and on what date the applicant has so notified said adjoining property owners and registered neighborhood organizations. The zoning administrator may solicit comments from appropriate city agencies.
- (3) *Posting requirements:* In addition to the written notice required above, the applicant shall post the property in a conspicuous location or locations determined by the zoning administrator with a sign provided by the zoning administrator. The posted notices shall contain the same information as the written notices and shall be in number, size and location as required by the zoning administrator. The property shall remain posted for twenty (20) days. Such posted notices shall be removed by the applicant within forty-five (45) days after their posting, failure to remove such notices in a timely manner shall constitute a violation of this chapter. If the tower is approved by the zoning administrator the property shall be posted for a period of fifteen (15) days after approval, indicating that the tower has been approved.
- (4) *If no public meeting is requested:* If no timely request for a public meeting in accordance with section 59-84(h)(5) is received, the zoning administrator shall consider the written comments of all interested parties and the factors contained in this subsection.
- a. *Findings required:* The zoning administrator may approve or approve with conditions the application providing findings are made that the proposed telecommunication towers will:
1. Not substantially or permanently injure the appropriate use of adjacent property;
 2. Maintain the separation distances between towers and certain uses contained in Table 1 of section 59-84(d)(2)f. of at least one hundred (100) feet and a distance of at least five hundred (500) feet from any other tower if the tower has a diameter or width of less the forty-eight (48) inches;

3. Maintain a setback distance of two thousand five hundred (2,500) feet from a residential district or residential structure, if the tower has a diameter or width of more than forty-eight (48) inches;
 4. Meet all zone district regulations.
- b. *Considerations.* The zoning administrator shall consider the following factors in determining whether the application meets the goals contained in section 59-84(a).
1. Height of the proposed tower;

2. Proximity of the tower to residential structures and residential district boundaries;
 3. Nature of uses on adjacent and nearby properties;
 4. Surrounding topography;
 5. Surrounding tree coverage and foliage;
 6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 7. Proposed ingress and egress; and
 8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.
- c. *Conditions:* In approving with conditions the zoning administrator may place such conditions on the approval as deemed necessary to advance the goals contained in section 59-84(a). Such conditions may include but are not limited to:
1. Moving the location of the tower to a more appropriate site;
 2. Using a different technology that will lessen the impact of the tower;
 3. Requiring an appropriate alternative tower structure; or
 4. Other actions which will disguise or otherwise lessen the impact of the tower.
- (5) *If a public meeting is requested:* If a request for a public meeting is received from three (3) property owners within five hundred (500) feet of the proposed tower or from a registered neighborhood association whose boundaries contain or are within two hundred (200) feet of the proposed tower, the zoning administrator shall refer the application to the director of the office of telecommunications to arrange for a public meeting to be held within thirty (30) days from the date of request.
- a. *Committee:* A committee composed of the director of the office of telecommunications, director of the planning office and the chairman of the planning board or their designees shall hold the public meeting.
 - b. *Notification and posting:* All persons submitting comments or requests for a public meeting and all neighborhood organizations whose boundaries contain or are within two hundred (200) feet of the location of the proposed tower shall be notified of the date, time and location of the public meeting. The applicant shall post the property in a conspicuous location or locations determined by the zoning administrator with a sign provided by the zoning administrator. Such sign shall describe the proposed construction and the date, time and location of the public meeting. The property shall be posted for fifteen (15) days prior to the meeting date. Such posted notices shall be removed by the applicant within forty-five (45) days after their posting, failure to remove such notices in a timely manner shall constitute a violation of this chapter. If the tower is approved by the zoning administrator the property shall be posted for a period of fifteen (15) days after approval, indicating that the tower has been approved.

- c. *Recommendation:* Within fifteen (15) days of the public meeting the committee shall make a recommendation to the zoning administrator to approve, approve with conditions or deny the application. In making its recommendation the committee shall consider the comments at the public meeting and the purposes and goals of this section 59-84 and the provisions of sections 59-84(h)(4)a. and 59-84(h)(4)b.
- d. *Zoning administrator's decision:* Within a reasonable time of receiving the recommendation of the committee the zoning administrator shall make a decision in accordance with the previous section 59-84(h)(4) above.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 763-05, § 7, eff. 10-28-05)

Sec. 59-85. Parking lot designated for a special event; need not be enclosed.

(a) *Residential districts.* In residential districts, a parking lot designated for a special event may be allowed by temporary permit on zone lots occupied by a church, community center or school and on zone lots in the R-4 and R-4-X zone districts occupied by an office building, provided:

- (1) The parking surface and driving aisles shall consist of an all-weather surfacing material but need not include any landscaping as required by other provisions of this chapter.
- (2) A parking lot manager or attendant shall be present on the zone lot during the entire period of each special event.
- (3) The applicant shall provide evidence from the assessor's office showing that the applicant is the owner of the property.
- (4) At each legal vehicle entry from the public street, no more than one (1) advertising or directional sign may be installed, which shall be limited in size to twelve (12) square feet. Each parking lot shall have one (1) sign six (6) square feet in area which is installed on the front property line and which contains the following information printed in letters two (2) inches high: owner's name, number of cars permitted in the lot and the temporary permit number. All signs related to the temporary parking use shall be installed only during the time of the special event, shall not exceed a height of six (6) feet, and need not be set back from any property line.
- (5) The dimensions for and the arrangement of parking spaces and driving aisles shall comply with the requirement of Chart 1, "off-street parking," which is part of article VI, "off-street parking requirements."
- (6) The zone lot shall be maintained in a manner which satisfies the rules and regulations established by the zoning administrator to protect the surrounding neighborhood from the effect of dust, erosion and litter, and from damage caused by automobiles. The property shall be cleaned up within twenty-four (24) hours after its use.

- (7) Violation of any of the requirements of this section 59-85(a) shall result in the cancellation of the temporary permit, and no new parking permit shall be issued for the subject zone lot until after a six-month period of time has transpired.
- (8) Each permit shall be valid only for a calendar year or remaining portion thereof, and shall allow parking only for the designated special events or series of special events as listed in the application for the permit.

(b) *Business and main street districts.* Parking lot designated for a special event in certain business and main street districts; need not be enclosed. Each permit shall be valid only for the duration of the designated special event; provided, however, that if the designated special event is a seasonal activity, the permit may be valid for the entire season but shall be restricted in use to designated dates and times during which the event is occurring. The following requirements shall be met:

- (1) *For developed zone lots containing a structure:* The parking area shall be improved according to the provisions of section 59-585. Use and maintenance of off-street parking space: The dimensions for and the arrangement of parking spaces and driving aisles shall comply with the requirements of chart 1, "off-street parking," which is part of article VI, "off-street parking requirements."
- (2) *For vacant zone lots:* The parking area shall be improved with an all-weather pavement. The dimensions for and the arrangement of parking spaces and driving aisles shall comply with the requirements of chart 1, "off-street parking," which is part of article VI, "off-street parking requirements."

(c) *Regulations for zone districts other than business, main street and residential.* Each permit shall be valid only for the duration of the designated event; provided, however, if the designated special event is a seasonal activity, the permit may be granted for the entire season but restricted in use to designated dates and times in which the event is occurring. No permit shall be approved unless the parking surface consists of a minimum thickness of gravel or road base material. Parking lots located in the O-1 zone district need not comply with this requirement for gravel or road base material.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 459-06, § 6, eff. 7-21-06)

Sec. 59-86. Uses allowed by temporary permit.

(a) *Generally.* The uses and structures described below are allowed by temporary permit in the zones indicated on the chart following the use descriptions. Need not be enclosed.

- (b) *Residential zone districts.* Temporary permit uses allowed in certain residential zones:
- (1) *Ambulance service.* Ambulance service operated in accordance with all of the following standards:
 - a. Not more than two (2) ambulances at any one (1) location;
 - b. Vehicles to be parked in completely enclosed structure when not in use;

- c. No mechanical or maintenance work is to be done on premises and no gasoline is to be stored there;
 - d. No office is to be maintained in connection with the above use.
 - e. Each permit shall be valid for a period of not more than six (6) months, but may be renewed; provided; however, that failure to comply with any of the standards set forth shall be cause for revocation of any permit.
- (2) *Bazaar*. Bazaar operated as a place for the display and sale of miscellaneous goods and for entertainment sponsored by a nonprofit organization or governmental entity, but not including motorized amusement rides. Each permit shall be valid for a period of not to exceed twelve (12) consecutive days and a period of at least ninety (90) days shall intervene between the termination of one (1) permit and the issuance of another permit for the same location.
- (3) *Health care center*. Health care center operated by a political subdivision of the State of Colorado providing service but not a commodity. Each permit shall be valid for a period of one (1) calendar year and may be renewed.
- (4) *Temporary office*. Temporary office, for the sale or rental of dwelling units within one (1) specific project under construction, rehabilitation or recently completed. The temporary office must be located on the property containing the dwelling units for sale or rental. Each such permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than four (4) successive periods for the same project.

Chart of Temporary Permit Uses by Zone.

RESIDENTIAL ZONE DISTRICTS

An "X" indicates the zone district which allows a specific use.

| | <i>RS-4</i> | <i>R-0</i> | <i>R-1</i> <i>R-2</i> <i>R-2-A</i> | | <i>R-4</i> | |
|------------------------------|-------------|--------------|------------------------------------------|------------|--------------|------------|
| <i>Temporary permit uses</i> | <i>R-X</i> | <i>R-3-X</i> | <i>R-2-B</i> | <i>R-3</i> | <i>R-4-X</i> | <i>R-5</i> |
| Ambulance service | | | | X | X | |
| Bazaar | | X | X | X | X | X |
| Health care center | | | X | X | | |
| Temporary office | X | X | X | X | | |

(c) *Business zone districts*. Temporary permit uses allowed in certain business zones:

- (1) *Bazaar, carnival or special event*. Each permit shall be valid for a period of not more than twelve (12) consecutive days and a period of at least ninety (90) days shall intervene between the termination of one (1) permit and the issuance of another

permit for the same location; may be operated only between 9:00 a.m. and 11:00 p.m.; may have motorized rides only if located at least five hundred (500) feet from a residential district.

- (2) *Outdoor retail sales.* Outdoor retail sales within one hundred twenty-five (125) feet of a pedestrian and/or transit mall; notwithstanding other requirements of this chapter 59, the outdoor retail sales of articles such as books, artwork, craftwork, food, flowers, clothing, newspapers and similar articles are permitted subject to the provisions of this section. Each permit for such sales shall be valid for a period of not more than six (6) calendar months, and may be renewed, providing the criteria set forth below are satisfied. Before issuing a permit for such use the zoning administrator shall determine that the proposed use meets all of the following criteria:
 - a. That it will not obstruct the movement of pedestrians through plazas or other areas intended for public usage, or create congestion on adjoining public sidewalks;
 - b. That it will not generate an undue amount of noise, fumes, glare or other external effects;
 - c. That it will not create a debris or litter problem.
- (3) *Sale of Christmas trees including wreaths.* No permit shall be effective prior to the first day of November in each calendar year and no permit shall be valid for a period of more than sixty (60) days; site cleanup shall be completed no later than five (5) days after Christmas day.

- (4) *Temporary outdoor sales.* Temporary outdoor sales involving the sale and display of goods and merchandise as an extension of a permitted use operating on the same zone lot. Such outdoor use shall be subject to the following conditions:
- a. Applicant shall submit an application fee of fifty dollars (\$50.00) for each application for a permit hereunder and for each application for renewal of a permit hereunder.
 - b. Each permit for the proposed use shall be valid for a period of not more than forty-five (45) days with one (1) renewal for a period of not more than thirty (30) days during any six (6) month period, if all requirements hereof have been complied with during the original permit period.
 - c. No required off-street parking space will be used for such merchandise display, storage or dispensing.
 - d. The proposed use must be set back at least thirty (30) feet from the curb of a public street and at least one hundred fifty (150) feet from a residential use.
 - e. No part of the proposed use shall obstruct visibility of motorists if located near a street corner or driveway entrance, nor shall such use obstruct the parking lot circulation system or block access to a public street.
 - f. No temporary structure erected in conjunction with the proposed use shall be built out of used or unpainted lumber or rusty metal. Tents are permitted, subject to fire department regulations.
 - g. Notwithstanding more restrictive regulations found elsewhere, a maximum of twenty-four (24) square feet of sign area is permitted for each use. Signage shall be limited to the walls or side of a tent, or structure or to a single freestanding sign which is not more than twenty-four (24) square feet in area per sign face. The provisions of section 59-550(e), permitted maximum sign area, do not apply to this use.
 - h. The applicant shall be responsible for the storage and daily removal of all trash, refuse and debris occurring on the site. All trash storage areas shall be screened from the view of persons using adjacent rights of way.
 - i. This provision shall in no way be deemed to authorize the outdoor sale of used furniture, used appliances, used plumbing, used housewares, used building materials or similar items.
- (5) *Seasonal outdoor sales.*
- a. Application requirements: Each applicant for seasonal outdoor sales shall include:
 1. A scaled site plan indicating the location of the temporary structures, trash storage areas, location of signs and the location of adjacent streets, avenues and alleys;

2. A letter from the owner of the property giving his/her consent to use the subject property;
 3. A reasonable application fee as determined by the zoning administrator;
- b. Operational requirements: Seasonal outdoor sales facilities shall meet the following requirements:
1. Permits shall be valid from May 1 through October 31 of each calendar year;
 2. Hours of operation are limited to 8:00 a.m. to 8:00 p.m. daily;
 3. Shall be limited to ten (10) percent of the area of the zone lot and off-street parking shall be provided in an amount equal to one-half ($\frac{1}{2}$) of the covered and uncovered retail sales area proposed at the facility; the parking surface shall be either paved or shall consist of a dust-free road base or acceptable gravel base material; and the ground area to be occupied by the proposed use shall not reduce the area occupied by the required parking of an existing permitted use on the zone lot;
 4. Comply with the setback requirements for the zone district in which it is located and shall be at least fifty (50) feet from any residential zone;
 5. Shall not obstruct the visibility of motorists, nor obstruct the parking lot circulation or block access to a public street;
 6. Shall obtain all required permits including permits for temporary structures;
 7. Temporary structures shall be limited to no more than two hundred (200) square feet;
 8. Signs shall be limited to not more than two (2) ground or wall signs as defined by section 59-2(133) and section 59-2(313), respectively; with a total area not exceeding twenty-four (24) square feet; located on the same zone lot as the seasonal outdoor sales and meeting the setback requirements of the zone district in which they are located;
 9. The applicant shall be responsible for the daily storage and removal of all trash, refuse, and debris. All trash storage facilities shall be provided with adequate screening as determined by the zoning administrator or his/her designees, to conceal such facilities from adjacent properties. No truck-tractors or semi-trailers shall be parked or stored on or adjacent to the seasonal outdoor sales area; and
 10. No seasonal outdoor sales of fruits or vegetables shall be permitted on any zone lot where any types of chemicals or gasoline are stored or sold.
- (6) *Retail food establishment, mobile.*
- a. *Application requirements.* Each application for retail food establishment, mobile shall include for each location:
 1. A site plan accurately indicating the location of any structures, location of the proposed use, trash storage areas, location of adjacent streets, avenues and alleys, and ingress and egress locations;

2. Written consent from the property owner authorizing the property to be used for the proposed use and approving the accurate site plan;
 3. A reasonable application fee as determined by the zoning administrator.
- b. *Operational requirements.* Retail food establishment, mobile shall meet the following requirements for each location:
1. Permits shall be valid for twelve (12) consecutive months and shall be renewed annually;
 2. Permits shall be valid for four (4) consecutive hours for each day at each zone lot;
 3. No more than one (1) retail food establishment, mobile shall be permitted to operate per day at each zone lot;
 4. Hours of operation shall be between 8:00 a.m. and 9:00 p.m.
 5. Operations shall only occur on zone lots and shall not reduce the area required for parking by article VI of this chapter for any other use on the zone lot;
 6. Operations shall be at least two hundred (200) feet from any eating place lawfully existing at the time the permit or renewal permit was issued and at least two hundred (200) feet from any other retail food establishment, mobile;
 7. Operations shall not obstruct the visibility of motorists, nor obstruct parking lot circulation or block access to a public street, alley or sidewalk;
 8. The permit authorized hereby shall be permanently displayed to the public in the food handling area of the retail food establishment, mobile during operation;
 9. Operations shall not occur outside of the retail food establishment, mobile;
 10. Structures, canopies and outdoor tables and chairs are prohibited;
 11. Signs must be permanently affixed to or painted on the retail food establishment, mobile;
 12. Signs shall not project from the retail food establishment, mobile and shall not illuminate;
 13. Operators shall be responsible for the storage and daily disposal of all trash, refuse, and litter;
 14. Operators shall not cause any liquid wastes used in the operation, with the exception of clean ice melt, to be discharged from the retail food establishment, mobile;
 15. Operations shall be located at least fifty (50) feet from any residential zone district;
 16. Operations are prohibited on undeveloped zone lots, zone lots with unoccupied structures and unpaved surfaces.

Chart of Temporary Permit Uses by Zone.

ALL "B" DISTRICTS, PLUS CCN

An "X" indicates which districts allow a specific use.

| <i>Temporary permit uses</i> | <i>B-1 B- A-1</i> | <i>B-2 B-8-A B-8-G CCN</i> | <i>B- A-2</i> | <i>B-3</i> | <i>B- A-3</i> | <i>B-4</i> | <i>B- A-4</i> | <i>B-5 B-5-T</i> | <i>B-7</i> | <i>B-8</i> |
|-----------------------------------|---------------------------|----------------------------------------|-------------------|------------|-------------------|------------|-------------------|----------------------|------------|------------|
| Bazaar, carnival or special event | X | X | | X | X | X | | X | X | X |
| Outdoor sales near a mall | | | | | | | | X | X | |
| Sale of Christmas trees | | X | | X | X | | X | X | | X |
| Temporary outdoor sales | | | | X | | | | | | |
| Seasonal outdoor sales | | | | X | X | X | | | | |
| Retail food establishment, mobile | | | | X | | X | | X | X | X |

(Ord. No. 439-07, § 6, eff. 8-20-07)

(d) *Industrial, O-1, and hospital zone districts.* Temporary permit uses allowed in certain zones shown on the chart below:

- (1) *Ambulance service.* This is the same use as described and regulated in the residential zones.
- (2) *Amusement/entertainment.* Amusement, entertainment or recreation on the payment of a fee or admission charge. Shall not be enclosed and shall be a minimum of five hundred (500) feet from a residential zone unless this spacing is reduced by the planning office. Each permit shall be valid for a period of not more than six (6) calendar months, but may be renewed.
- (3) *Bazaar, carnival and/or circus.* Each permit shall be valid for a period of not more than twelve (12) consecutive days, and a period of at least ninety (90) days shall intervene between the termination of one (1) permit and the issuance of another permit at the same location. May be operated only between 9:00 a.m. and 11:00 p.m.; may have motorized rides only if located at least five hundred (500) feet from a residential district.
- (4) *Sale of Christmas trees.* This is the same use as described and regulated in the business zones.
- (5) *Temporary office.* Both incidental and necessary for the sale or rental of real property in the zoning district. Each permit shall specify the location of the office and the area, within the same zoning district, of the permitted operation, no part of which area shall

be a distance of more than two (2) miles from the office. Each such permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than four (4) successive periods at the same location.

- (6) *Tent for religious services.* Must be five hundred (500) feet from a residential zone. Applications shall be reviewed by the fire department. Each such permit shall be valid for a period of one (1) month and may be renewed.
- (7) *Seasonal outdoor sales.*
- a. Application requirements. Each application for seasonal outdoor sales shall include:
 1. Scaled site plan indicating the location of the temporary structures, trash storage areas, location of signs and the location of adjacent streets, avenues and alleys;
 2. A letter from the owner of the property giving his/her consent to use the subject property;
 3. Reasonable application fee as determined by the zoning administrator;
 - b. Operational requirements. Seasonal outdoor sales facilities shall meet the following requirements:
 1. Permits shall be valid from May 1 through October 31 of each calendar year;
 2. Hours of operation are limited to 8:00 a.m. to 8:00 p.m. daily;
 3. Shall be limited to ten (10) percent of the area of the zone lot and off-street parking shall be provided in an amount equal to one-half ($\frac{1}{2}$) of the covered and uncovered retail sales area proposed at the facility; the parking surface shall be either paved or shall consist of a dust-free road base or acceptable gravel base material; and the ground area to be occupied by the proposed use shall not reduce the area occupied by the required parking of an existing permitted use on the zone lot;
 4. Comply with the setback requirements for the zone district in which it is located and shall be at least fifty (50) feet from any residential zone;
 5. Shall not obstruct the visibility of motorists, nor obstruct the parking lot circulation or block access to a public street;
 6. Shall obtain all required permits including permits for temporary structures;
 7. Temporary structures shall be limited to no more than two hundred (200) square feet;
 8. Signs shall be limited to not more than two (2) ground or wall signs as defined by section 59-2(133) and section 59-2(313), respectively; with a total area not exceeding twenty-four (24) square feet; located on the same zone lot as the seasonal outdoor sales and meeting the setback requirements of the zone district in which they are located;
 9. The applicant shall be responsible for the daily storage and removal of all trash, refuse, and debris. All trash storage facilities shall be provided with adequate screening as determined by the zoning administrator or his/her

designees, to conceal such facilities from adjacent properties. No truck-tractors or semi-trailers shall be parked or stored on or adjacent to the seasonal outdoor sales area;

10. No seasonal outdoor sales of fruits or vegetables shall be permitted on any zone lot where any types of chemicals or gasoline are stored or sold.

(8) *Retail food establishment, mobile.*

- a. *Application requirements.* Each application for retail food establishment, mobile shall include for each location:
 1. A site plan accurately indicating the location of the proposed use, trash storage areas, location of adjacent streets, avenues and alleys, and ingress and egress locations;
 2. Written consent from the property owner authorizing the property to be used for the proposed use and approving the accurate site plan;
 3. A reasonable application fee as determined by the zoning administrator.
- b. *Operational requirements.* Retail food establishment, mobile shall meet the following requirements for each location:
 1. Permits shall be valid for twelve (12) consecutive months and shall be renewed annually;
 2. Permits shall be valid for four (4) consecutive hours for each day at each zone lot;
 3. No more than one (1) retail food establishment, mobile shall be permitted to operate per day at each zone lot;
 4. Hours of operation shall be between 8:00 a.m. and 9:00 p.m.
 5. Operations shall only occur on zone lots and shall not reduce the area required for parking by article VI of this chapter for any other use on the zone lot;
 6. Operations shall be at least two hundred (200) feet from any eating place lawfully existing at the time the permit or renewal permit was issued and at least two hundred (200) feet from any other retail food establishment, mobile;
 7. Operations shall not obstruct the visibility of motorists, nor obstruct parking lot circulation or block access to a public street, alley or sidewalk;
 8. The permit authorized hereby shall be permanently displayed to the public in the food handling area of the retail food establishment, mobile during operation;
 9. Operations shall not occur outside of the retail food establishment, mobile;
 10. Structures, canopies and outdoor tables and chairs are prohibited;
 11. Signs must be permanently affixed to or painted on the retail food establishment, mobile;

12. Signs shall not project from the retail food establishment, mobile and shall not illuminate;
 13. Operators shall be responsible for the storage and daily disposal of all trash, refuse, and litter;
 14. Operators shall not cause any liquid wastes used in the operation, with the exception of clean ice melt, to be discharged from the retail food establishment, mobile;
 15. Operations shall be located at least fifty (50) feet from any residential zone district;
 16. Operations are prohibited on undeveloped zone lots, zone lots with unoccupied structures and unpaved surfaces.
- c. Temporary continuation of existing uses. A retail food establishment, mobile operating within the city as of May 17, 2001, may continue operating to and including July 17, 2001, without the zoning permit authorized hereby provided, operations comply with the operational requirements set forth in paragraph 59-86(8)(b), above, and the retail food establishment, mobile has obtained all other required approvals and licenses including, but not limited to, permits from the department of excise and license and department of environmental health.

Chart of Temporary Permit Uses by Zone.

INDUSTRIAL AND HOSPITAL DISTRICTS

An "X" indicates the zone district which allows a specific use.

| <i>Temporary permit uses</i> | <i>I-0</i> | <i>I-1 I-2</i> | <i>O-1</i> | <i>H-1-A H-1-B H-2</i> |
|-------------------------------------|------------|----------------|------------|----------------------------|
| Ambulance Service | | | | X |
| Amusement, entertainment and others | X | X | | |
| Bazaar, carnival and/or circus | | | X | X |
| Sale of Christmas trees | X | X | X | |
| Temporary office | | | X | |
| Tent for religious service | X | X | | |
| Seasonal outdoor sales | X | | | |
| Retail food establishment, mobile | X | X | | |

(e) *OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, T-MU-30, MS-1, MS-2, and MS-3.* The following temporary permit uses are allowed in OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, T-MU-30, MS-1, MS-2 and MS-3 as shown on the chart below:

- (1) *Bazaar, carnival, or special event.* Each permit shall be valid for a period of not more than twelve (12) consecutive days and a period of at least ninety (90) days shall

intervene between the termination of one (1) permit and the issuance of another permit for the same location; may be operated only between 9:00 a.m. and 11:00 p.m.; may have motorized rides only if located at least five hundred (500) feet from a residential district.

- (2) *Outdoor retail sales.* Outdoor retail sales within one hundred twenty-five (125) feet of a pedestrian and/or transit mall; notwithstanding the requirements of any other provision of this chapter 59, the outdoor retail sales of articles such as books, artwork, craft work, food, flowers, clothing, newspapers, and similar articles are permitted subject to the provisions of this section. Each such permit shall be valid for a period of not more than six (6) calendar months, and may be renewed, providing the criteria set forth below are satisfied. Before issuing a permit for such use the zoning administrator shall determine that the proposed use meets all of the following criteria:
 - a. That it will not obstruct the movement of pedestrians through plazas or other areas intended for public usage, or create congestion on adjoining public sidewalks;
 - b. That it will not generate an undue amount of noise, fumes, glare, or other external effects;
 - c. That it will not create a debris or litter problem.
- (3) *Sale of Christmas trees, including wreaths.* No permit shall be effective prior to the first day of November in each calendar year and no permit shall be valid for a period of more than sixty (60) days; site cleanup shall be completed no later than five (5) days after Christmas day.
- (4) *Temporary outdoor sales.* Temporary outdoor sales involving the sale and display of goods and merchandise as an extension of a use by right or use by special review operating on the same zone lot. Such outdoor use shall be subject to the following conditions:
 - a. Applicant shall submit an application fee of fifty dollars (\$50.00) for each application for a permit hereunder and for each application for renewal of a permit hereunder.
 - b. Each permit for the proposed use shall be valid for a period of not more than forty-five (45) days with one (1) renewal for a period of not more than thirty (30) days during any six-month period, if all requirements hereof have been complied with during the original permit period.
 - c. No required off-street parking space will be used for such merchandise display, storage, or dispensing.
 - d. The proposed use shall be set back at least thirty (30) feet from the curb of a public street and at least one hundred fifty (150) feet from a residential use.
 - e. No part of the proposed use shall obstruct visibility of motorists if located near a street corner or driveway entrance, nor shall such use obstruct the parking lot circulation system or block access to a public street.

- f. No temporary structure erected in conjunction with the proposed use shall be built out of used or unpainted lumber or rusty metal. Tents are permitted, subject to fire department regulations.
 - g. Notwithstanding more restrictive regulations found elsewhere, a maximum of twenty-four (24) square feet of sign area is permitted for each use. Signage shall be limited to the walls or side of a tent or structure or to a single freestanding sign which is not more than twenty-four (24) square feet in area per sign face. The provisions of section 59-550(e) (permitted maximum sign area) do not apply to this use.
 - h. The applicant shall be responsible for the storage and daily removal of all trash, refuse, and debris occurring on the site. All trash storage areas shall be screened from the view of persons using adjacent rights-of-way.
 - i. This provision shall in no way be deemed to authorize the outdoor sale of used furniture, used appliances, used building materials, used plumbing, used housewares, used building materials, or similar items.
- (5) *Seasonal outdoor sales.*
- a. *Application requirements.* Each application for seasonal outdoor sales shall include:
 - 1. A scaled site plan indicating the location of the temporary structures, trash storage areas, location of signs and the location of adjacent streets, and alleys;
 - 2. A letter from the owner of the property giving his/her consent to use the subject property;
 - 3. A reasonable application fee as determined by the zoning administrator.
 - b. *Operational requirements.* Seasonal outdoor sales facilities shall meet the following requirements:
 - 1. Permits shall be valid from May 1 through October 31 of each calendar year;
 - 2. Hours of operation are limited to 8:00 a.m. to 8:00 p.m. daily;
 - 3. Shall be limited to ten (10) percent of the area of the zone lot and off-street parking shall be provided in an amount equal to one-half ($\frac{1}{2}$) of the covered and uncovered retail sales area proposed at the facility; the parking surface shall be either paved or shall consist of a dust-free road base or acceptable gravel base material; and the ground area to be occupied by the proposed use shall not reduce the area occupied by the required parking of an existing permitted use on the zone lot;
 - 4. Comply with the setback requirements for the zone district in which it is located and shall be at least fifty (50) feet from any residential zone;
 - 5. Shall not obstruct the visibility of motorists, nor obstruct the parking lot circulation or block access to a public street;

6. Temporary structures shall be limited to no more than two hundred (200) square feet in area and shall obtain all required permits from the building department, fire department, health department and the department of zoning administration;
7. Signs shall be limited to not more than two (2) ground or wall signs as defined by section 59-2(133) and section 59-2(312), respectively; with a total area not exceeding twenty-four (24) square feet; located on the same zone lot as the seasonal outdoor sales and meeting the setback requirements of the zone district in which they are located;
8. The applicant shall be responsible for the daily storage and removal of all trash, refuse, and debris. All trash storage facilities shall be provided with adequate screening as determined by the zoning administrator or his/her designees, to conceal such facilities from adjacent properties. No truck-tractors or semi-trailers shall be parked or stored on or adjacent to the seasonal outdoor sales area;
9. No seasonal outdoor sales of fruits or vegetables shall be permitted on any zone lot where any type of chemicals or gasoline is stored or sold.

(6) *Retail food establishment, mobile.*

- a. Application requirements. Each application for retail food establishment, mobile shall include for each location:
 1. A site plan accurately indicating the location of the proposed use, trash storage areas, location of adjacent streets, avenues and alleys, and ingress and egress locations;
 2. Written consent from the property owner authorizing the property to be used for the proposed use and approving the accurate site plan;
 3. A reasonable application fee as determined by the zoning administrator.
- b. *Operational requirements.* Retail food establishment, mobile shall meet the following requirements for each location:
 1. Permits shall be valid for twelve (12) consecutive months and shall be renewed annually;
 2. Permits shall be valid for four (4) consecutive hours for each day at each zone lot;
 3. No more than one (1) retail food establishment, mobile shall be permitted to operate per day at each zone lot;
 4. Hours of operation shall be between 8:00 a.m. and 9:00 p.m.
 5. Operations shall only occur on zone lots and shall not reduce the area required for parking by article VI of this chapter for any other use on the zone lot;

6. Operations shall be at least two hundred (200) feet from any eating place lawfully existing at the time the permit or renewal permit was issued and at least two hundred (200) feet from any other retail food establishment, mobile;
7. Operations shall not obstruct the visibility of motorists, nor obstruct parking lot circulation or block access to a public street, alley or sidewalk;
8. The permit authorized hereby shall be permanently displayed to the public in the food handling area of the retail food establishment, mobile during operation;
9. Operations shall not occur outside of the retail food establishment, mobile;
10. Structures, canopies and outdoor tables and chairs are prohibited;
11. Signs must be permanently affixed to or painted on the retail food establishment, mobile;
12. Signs shall not project from the retail food establishment, mobile and shall not illuminate;
13. Operators shall be responsible for the storage and daily disposal of all trash, refuse, and litter;
14. Operators shall not cause any liquid wastes used in the operation, with the exception of clean ice melt, to be discharged from the retail food establishment, mobile;
15. Operations shall be located at least fifty (50) feet from any residential zone district;
16. Operations are prohibited on undeveloped zone lots, zone lots with unoccupied structures and unpaved surfaces.

Chart of Temporary Permit Uses by Zone.

OS-1, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, T-MU-30, MS-1, MS-2 and MS-3 DISTRICTS

An "X" indicates the zone district which allows a specific use.

| <i>Temporary permit uses</i> | <i>OS-1</i> | <i>R-MU-20 R-MU-30</i> | <i>C-MU-10</i> | <i>C-MU-20 C-MU-30</i> | <i>T-MU-30</i> | <i>MS-1 MS-2 MS-3</i> |
|-----------------------------------|-------------|----------------------------|----------------|----------------------------|----------------|-------------------------------|
| Bazaar, carnival or special event | X | X | X | X | X | X |
| Outdoor sales near a mall | | | X | X | X | |
| Sale of Christmas trees | X | | X | X | X | |
| Temporary outdoor sales | X | X | X | X | X | |
| Seasonal outdoor sales | | | X | X | X | |

| | | | | | | |
|--------------------------------------|-------------|----------------|----------------|----------------|----------------|-------------|
| | | <i>R-MU-20</i> | | <i>C-MU-20</i> | | <i>MS-1</i> |
| <i>Temporary permit uses</i> | <i>OS-1</i> | <i>R-MU-30</i> | <i>C-MU-10</i> | <i>C-MU-30</i> | <i>T-MU-30</i> | <i>MS-2</i> |
| Retail food establishment, mobile | | | X | X | | <i>MS-3</i> |

(Ord. No. 624-05, § 1, eff. 9-2-05; Ord. No. 660-05, § 3, eff. 9-16-05)

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-87. Accessory uses allowed.

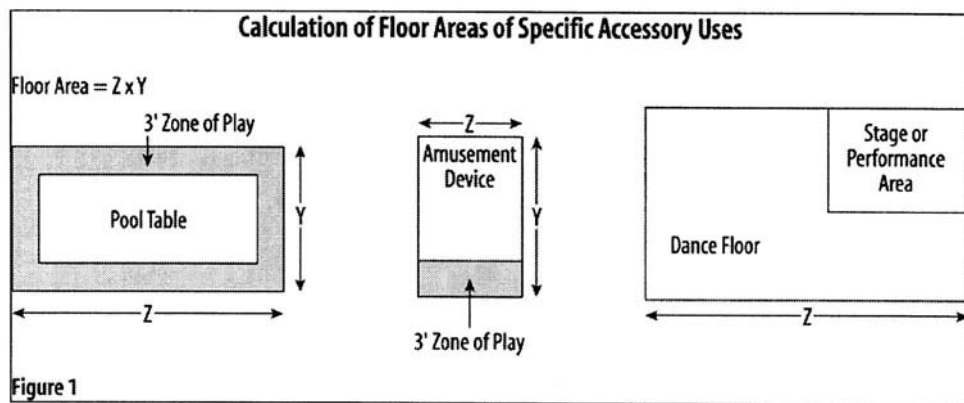
(a) *General.* Any use, which complies with the conditions listed in this section, may be operated as an accessory use to a use by right, a use exception, a conditional use or a use by special review, unless specifically prohibited by this subsection. In this subsection the term "use by right" also includes these three (3) other types of uses. Some zone districts allow certain specific accessory uses as listed below. Accessory uses need not be enclosed, unless specifically stated herein.

(b) *Residential and business zone districts.*

(1) *Generally applicable conditions.* All accessory uses, except accessory dwelling units, must comply with all the following general conditions. Accessory dwelling units, where permitted by 59-87(c) (accessory uses allowed in the mixed use zone districts), must comply with the specific conditions stated in section 59-87(c) instead of these general conditions.

- a. Such use shall be clearly incidental and customary to and commonly associated with the operation of the use by right;
- b. Such use shall be operated and maintained under the same ownership and on the same zone lot as the use by right; provided however, that in all business districts and for those accessory uses allowed by zoning permit by subsection 59-87(b)(2)a., lessees or concessionaires may operate the use; and provided further that in non-residential structures owned and operated by a church in a residential district non-profit lessees or concessionaires may operate the use; (Ord. No. 393-06, § 1, eff. 6-23-06; Ord. No. 151-08, § 1, eff. 3-28-08)
- c. Such use shall not include structures or structural features inconsistent with the use by right;
- d. Such use shall not include residential occupancy in a detached structure except by domestic employees employed on the premises and the immediate families of such employees;
- e. The area of specific accessory uses shall be calculated as follows (Refer to Figure A):
 - 1. Pool tables. The area occupied shall be calculated by adding three (3) feet to each dimension of such pool table to include the area of play.

2. Pinball, video games and other similar amusement devices. The area occupied shall be calculated by adding three (3) feet to the area directly in front of the device.
3. Dance floors. The area shall be the sum total of all of the areas of the dance floor and any stage or area used for the playing or performance of recorded or live music.



- f. Limitations in detached structures. If operated partially or entirely in detached structures, the gross floor area of such detached structures shall not exceed ten (10) percent of the area of the zone lot; provided, however, that this limitation shall not apply to detached garages or detached carports used exclusively by occupants of structures containing the use by right or by persons employed in such structure;
- g. Limitations in the principal structure. If operated partially or entirely within the structure containing the use by right, the gross floor area utilized by the accessory use (except garages and dining rooms for the exclusive use of occupants or persons employed in the structure) shall not be greater than:
 1. Twenty (20) percent of the gross floor area, but not to exceed three hundred (300) square feet, of a single unit dwelling or any dwelling unit in a multiple unit dwelling containing eight (8) or less dwelling units;
 2. Ten (10) percent of the gross floor area occupied by a use by right other than a single unit dwelling or a multiple unit dwelling containing eight (8) or less dwelling units;

(2) *Accessory uses allowed by zoning permit.* Subject to the conditions listed in subsection 59-87(b)(1) above, one (1) or more accessory uses may be operated in the zone districts listed below.

- a. Accessory uses permitted in the R-2-A, R-3, R-4, R-4-X and B-A-1 zone districts, as shown in the table below, provided that such uses:
 - 1. Are provided principally for the convenience of the owner or owners of the zone lot and the tenants thereof;
 - 2. Do not have signs of any type;
 - 3. Do not have separate outside entrances to the accessory use facing any street;
 - 4. Are not evident from any street; and
 - 5. Are incidental to the use by right.

| <i>Accessory uses allowed</i> | <i>R-2-A zone multiple unit dwelling having 300 or more dwelling units</i> | <i>R-3 zone multiple unit dwelling having 50,000 sq. ft. or more gross floor area</i> | <i>R-4 and R-4-X zones multiple unit dwelling and/or office having 50,000 sq. ft. or more gross floor area</i> | <i>B-A-1 zone multiple unit dwelling and/or office having 50,000 sq. ft. or more gross floor area</i> |
|-------------------------------------------------|----------------------------------------------------------------------------|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| Banking and financial services | X | X | X | X |
| Retail, service repair, consumer—small-scale | X | X | X | X |
| Consumer service, small-scale | X | X | X | X |
| Eating place, no live entertainment | X | X | X | X |
| Office: nondental or non-medical | | | X | X |
| Printing services, publishing, business support | | | X | X |

(Ord. No. 151-08, § 2, eff. 3-28-08)

- b. Specific accessory uses permitted in the B-A-2, B-3 and R-5 zone districts. The following accessory uses are permitted provided that such uses are incidental to the listed use by right and comply with the conditions listed after the specific accessory use.

| <i>Zone district</i> | <i>Use by right</i> | <i>Accessory Use</i> | <i>Conditions</i> |
|----------------------|---------------------|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| B-A-2 | Hotel or motel | Automobile gaso- line filling sta- tion | Does not utilize more than thirty thou- sand (30,000) square feet of zone lot area; does not include rental of any type, repairing, painting, storage, dis- mantling or tire recapping on the pre- mises; parks no vehicles being serviced on streets, alleys, public sidewalks or public park strips; is provided with barriers of such dimensions that occu- pants of adjacent structures are not unreasonably disturbed, either by day or night, by the movement of vehicles; is lighted by fixtures so arranged that they neither unreasonably disturb oc- cupants of adjacent residential proper- ties nor interfere with traffic; and fuel pumps need not be enclosed. |

| <i>Zone district</i> | <i>Use by right</i> | <i>Accessory Use</i> | <i>Conditions</i> |
|----------------------|---------------------|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| B-A-2 | Hotel or motel | Car wash bay | Permitted as a part of an automobile gasoline filling station, as allowed above. Notification shall be given to registered neighborhood organizations whose boundaries encompass the property and to all adjoining property owners. Such notification shall include a copy of the site plan and shall give directions for submitting written comments. In deciding to approve or disapprove the application, the zoning administrator shall consider the written comments of all interested parties. In approving an application the zoning administrator may attach conditions in order to protect adjoining properties and must find that the proposed use will not adversely affect the appropriate use of adjoining properties. Such use shall be limited in capacity to one (1) vehicle and may be operated with either manual or automatic equipment. Adequate landscaping and solid fencing shall be installed to control the effects of noise where such bay is located adjacent to a residential use or a residential zone. Sufficient space on the same zone lot shall be provided to accommodate three (3) waiting vehicles in addition to the required off-street parking. A site plan showing all improvements on the zone lot shall be submitted to the planning office for review. The hours of operation shall be limited to the period between 7:00 a.m. and 10:00 p.m. |
| B-A-2 | Hotel or motel | Grocery store or delicatessen | Limited to one thousand two hundred (1,200) square feet of gross floor area; and is a part of an automobile gasoline filling station, as provided above. |

| <i>Zone district</i> | <i>Use by right</i> | <i>Accessory Use</i> | <i>Conditions</i> |
|----------------------|-------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| B-3 | A department store having twenty thousand (20,000) or more square feet of gross floor area or an automobile sales room. | Automobile rental service | Storage of all rental automobiles shall be located on the same zone lot as the office for the automobile rental service; not more than fifteen (15) rental automobiles shall be stored at any one (1) location; servicing and maintenance work on automobiles is permitted only as limited to automobile service stations in the district; the land area assigned for storage of rental automobiles shall not be included for computation of any required off-street parking space; and truck rental is not permitted. |
| R-5 | Public libraries, administrative offices for religious or charitable organizations, and/or seminars | Book or gift store; media recording and production facilities | Accessory uses do not occupy more than ten (10) percent of the gross floor area occupied by the use or uses by right. |

- c. Specific accessory uses allowed for residential uses located in the RS-4, R-0, R-1, R-2, R-2-A, R-2-B, R-3, R-3-X, R-4, R-4-X, R-MU-20, R-MU-30, MS-1, MS-2, MS-3 or R-X zone districts.

(Ord. No. 660-05, § 4, eff. 9-16-05)

1. Kennel or exercise run. Outdoor kennels and exercise runs shall be allowed accessory to a dwelling unit, subject to the following:
 - i. The use shall not exceed two hundred (200) square feet in area;
 - ii. The use shall be located not less than twenty (20) feet from any habitable building on an adjacent zone lot;
 - iii. The use shall be visually screened from adjacent residential property; and
 - iv. The number of animals allowed on-site shall comply with the limit on the number and kinds of animals stated in the chart below.
2. Number and kinds of animals accessory to dwelling units. See the following chart.

| <i>Kind of Animal</i> | <i>Permitted number</i> |
|-----------------------|-------------------------|
| Dogs | 3 |
| Cats | 5 |

| <i>Kind of Animal</i> | <i>Permitted number</i> |
|-------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Combination of dogs and cats | No more than 5 dogs and cats combined provided there are no more than 3 dogs as part of the total. |
| Rabbits | 2 |
| Pigeons or doves | 25 |
| Horses | No more than 1 horse for each 1/2 acre of zone lot area |
| Small rodents—Rats, mice, guinea pigs, hamsters and other similar animals | No numerical limit, however, the raising or breeding of these animals for resale is prohibited |
| Fish | No numerical limit, however, the raising or breeding of these animals for resale is prohibited |
| Small reptiles and amphibians. The types of these animals is regulated by chapter 8 of the Revised Municipal Code | No numerical limit, however, the raising or breeding of these animals for resale is prohibited. |
| Domestic honey bees | 2 hives per zone lot; hives must be in rear 1/3 of zone lot with a five-foot setback from side and rear zone lot lines; the hives must be screened so that the bees must fly over a six-foot barrier, which may be vegetative, before leaving the property; no outdoor storage of any bee paraphernalia or hive materials not being used as a part of a hive. |

(Ord. No. 621-08, § 1, eff. 11-21-08)

3. Yard and or garage sales. Yard and/or garage sales shall be allowed subject to the following limitations:
 - i. Shall not exceed seventy-two (72) hours of total duration;
 - ii. Shall not have more than one (1) such sale in the period from January 1st to June 30th and no more than one (1) such sale in the period from July 1st to December 31st;
 - iii. Items offered for sale shall not have been bought for resale or received on consignment for the purpose of resale; and
 - iv. All external evidence of the sale shall be removed immediately upon the conclusion of the sale.

4. Number of vehicles, excluding motorcycles, accessory to a dwelling unit. On any zone lot occupied by a dwelling unit, on any public right of way bordering or within the block on which the dwelling unit is located and on any public right-of-way bordering or within all adjoining blocks (see figure

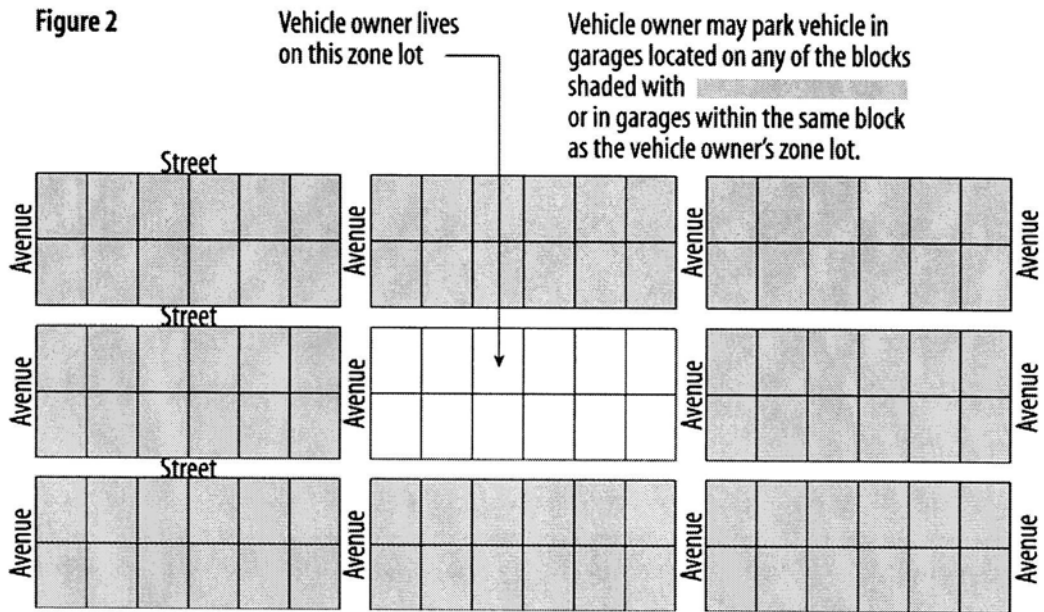
2), there shall be, in total, parked and/or stored no more than one (1) vehicle per licensed driver residing in the dwelling unit plus one (1) additional vehicle per dwelling unit;

(Ord. No. 625-05, § 4, eff. 9-2-05)

5. Off-street parking of vehicles in garages on zone lots by non-residents of the zone lot. Vehicles may be parked/stored in garages on zone lots not occupied by the owner of such vehicle if:
 - i. The subject garage is located on a zone lot in the same block as the zone lot on which the said vehicle owner resides; or

- ii. The subject garage is located on a zone lot in a block that is immediately adjacent to the block that contains the zone lot on which the said vehicle owner resides. (see figure 2)

However, this provision does not permit the use of garages by non-resident owners of the zone lot containing the subject garage to use such garage for storage, nor does this provision allow the use of the subject garage used for the repair of vehicles either by the non-resident owner of the said zone lot containing the subject garage, or the non-resident owner of the said vehicle.



- 6. Number of trailers permitted on a zone lot containing a single unit dwelling. Trailers shall be limited by the following:
 - i. Permitted number—Two (2);
 - ii. Shall not exceed twenty-two (22) feet in length; and
 - iii. Each trailer must be designed to have and be used for a substantially different purpose.
- 7. Number of motorcycles accessory to a dwelling unit. On any zone lot occupied by a dwelling unit, there shall be parked and/or stored no more than one (1) motorcycle per driver licensed to operate a motorcycle residing in such dwelling unit. Such motorcycles shall be in addition to the total number of vehicles allowed in 59-87(b)(2)c.4., above.

d. [Repealed by Ord. No. 836-06, § 2, eff. Dec. 26, 2006.]
 (Ord. No. 206-05, § 1, eff. 4-8-05)

(c) Accessory uses allowed in the R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, OS-1, O-1, O-2, I-0, I-1, and I-2 zone districts:

- (1) General conditions. Unless specifically excepted, all accessory uses must comply with the following general conditions:
 - a. Such use is clearly incidental and customary to and commonly associated with the operation of the use by right or use by special review;
 - b. Such use is operated and maintained under the same ownership and on the same zone lot as the use by right or use by special review. Accessory uses may only be operated by the residents or occupants of the zone lot containing the use by right or use by special review;
 - c. Such use does not include structures or structural features inconsistent with the use by right or use by special review;
 - d. Except for accessory dwelling uses allowed by subsection 59-87(c)(1)h, such use does not include residential occupancy except by persons employed on the premises and the immediate families of such employees.
 - e. Except for accessory dwelling uses allowed by subsection 59-87(c)(1)h, if the accessory use is operated partially or entirely in detached structures, such detached structures shall be limited to a gross floor area of not more than ten (10) percent of the area of the zone lot on which the use by right or use by special review is located;
 - f. In industrial zone districts accessory uses operated partially or entirely within the structure containing the use by right or use by special review, the gross floor area within such structure utilized by accessory uses (except garages, loading docks, and company dining rooms) shall not be greater than twenty (20) percent of the gross floor area of the structure containing the use by right or use by special review;
 - g. Other permitted accessory uses in the industrial zones. Notwithstanding the conditions stated above, any recreational use for the benefit of employees and/or customers may be operated on the zone lot;
 - h. In the R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30 districts, an attached or detached accessory dwelling unit shall be permitted as an accessory use to any single-unit dwelling in accordance with the following requirements. In case of conflict between the specific requirements for accessory dwelling units stated below and the conditions stated in section 59-87 or section 59-88 that are applicable to accessory uses or structures generally, the more specific requirements in this subsection shall apply to the accessory dwelling unit.
 1. Limits on occupancy. In order to avoid overcrowding of the accessory dwelling unit, the accessory dwelling unit must contain a minimum of two hundred (200) square feet of gross floor area per occupant.

2. Building requirements: All attached or detached accessory dwelling units shall comply with all building, plumbing, electrical, fire, health, housing, and other applicable codes.
3. Structural and locational requirements. All attached or detached accessory dwelling units shall meet the following requirements:
 - i. No more than one (1) attached or detached accessory dwelling unit shall be located on a zone lot or an individual building parcel in a planned building group;
 - ii. The single unit dwelling shall not be altered in any way so as to appear from a public street to be a multiple-unit dwelling.
 - iii. The accessory dwelling unit shall not be served by a driveway separate from that serving the single-unit dwelling;
 - iv. The accessory dwelling unit shall not exceed the following limits:

Maximum gross floor area of accessory dwelling units

| <i>Gross Floor Area of Principal Single-Unit Dwelling Unit</i> | <i>Maximum Gross Floor Area of the Accessory Dwelling Unit</i> |
|----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <1,200 square feet | 400 square feet |
| 1,201 to 1600 square feet | 450 square feet |
| 1,601 to 2,000 square feet | 500 square feet |
| >2,000 square feet | 25 percent of area of use by right or use by special review single-unit dwelling up to a maximum of 1,000 square feet |

- v. Regardless of the maximum gross floor areas shown in the table above, if a detached accessory dwelling unit is constructed above a detached accessory garage structure, the floor plate of the accessory dwelling unit shall be no larger than the ground floor footprint of the accessory garage structure.
- vi. The accessory dwelling unit, shall not cover more than thirty (30) percent of the rear one-half (1/2) of the zone lot or the individual building parcel in a planned building group;
- vii. The accessory dwelling unit, shall conform to all the setback and bulk plane limitations of the zone district in which it is located and shall be no taller than the use by right, use by special review or single-unit dwelling. Building height shall be measured according to section 59-2(52) (building height measurement);
- viii. The accessory dwelling unit, may be accessed by a separate outside stairway located in conformance with all building and zoning requirements;

- ix. Roof and exterior wall materials and finishes for the accessory dwelling unit shall be comparable in composition and appearance to that of the use by right, use by special review or single-unit dwelling on the zone lot.
- x. Wherever feasible, water and sewer shall be supplied to both the use by right, use by special review or single-unit dwelling and the attached or detached accessory dwelling units through single taps, and electric and/or gas utilities shall be supplied through a single meter.

(d) Accessory uses specifically prohibited.

- (1) The sale, lease, trade or other transfer of firearms or ammunition by a firearms dealer in residential zone districts;
- (2) The parking/storage of: tow trucks; any vehicle with a manufacturer's rating exceeding one (1) ton; stake body trucks; cube or box vans; backhoes; vehicles towing trailers carrying machinery and supplies; or other similar specialized vehicles in residential zones. Such vehicles may be parked in the residential zone only to render services to a zone lot and only for the duration necessary to render such services.

(Ord. No. 621-08, § 2, eff. 11-21-08)

(e) Accessory uses specifically allowed for churches and religious institutions. Occasional sales of goods and services for religious or non-profit organizations shall be an allowed accessory use to churches and religious institutions in all zone districts. Need not be enclosed.

(Ord. No. 623-08, § 1, eff. 11-21-08)

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 244-07, §§ 2—4, eff. 6-8-07)

Sec. 59-88. Accessory structures allowed.

(a) *Generally.* The following accessory structures which comply with the provisions of this subsection and the permitted structure provisions of the particular zone district in which said accessory structure is located, may be designed, erected, used, or occupied by permitted accessory uses.

(b) *Types of permitted accessory structures.*

- (1) Garages used exclusively for the parking of non-commercial vehicles, other wheeled vehicles designed to be drawn by passenger vehicles, normal household goods and other similar objects. Where specifically allowed by section 59-87(c)(1)h, an accessory dwelling unit may be housed in an accessory garage structure provided compliance with all off-street parking requirements and the standards applicable to accessory dwelling units in section 59-87 and this section. (See figure no. 1 below.)
- (2) Carports and off-street parking areas;
- (3) Storage shed buildings, playhouses, patios, cabanas, pool houses, porches, decks, and gazebos;
- (4) Fences, walls and retaining walls;

- (5) Gates and guard houses;
- (6) Storm and fallout shelters;
- (7) Radio and television receiving antennas and support structures, including satellite dishes less than thirty-two (32) inches in diameter, and one (1) amateur radio sending and receiving antenna and support structures provided for same;
- (8) Swimming pools and other recreational and play facilities for the use of residents;

- (9) Solar and photo-voltaic energy systems;
- (10) Barbeques, outside fireplaces, eating areas.

(c) *Detached accessory structures accessory to a single unit dwelling located in any residential zone district.*

(1) *Height.*

- a. Except when the detached accessory structure includes a permitted accessory dwelling unit, the detached accessory structure shall be limited to a single story and shall not exceed fifteen (15) feet in height;
- b. When a detached accessory structure includes space for parking of noncommercial vehicles and also includes an accessory dwelling unit, the detached accessory structure is limited to two (2) stories and shall not exceed the height specified in section 59-87(c) for accessory dwelling units.

(2) *Size.*

- a. Single-story, detached accessory structures shall not exceed one thousand (1,000) square feet in area and no one horizontal dimension may exceed thirty-six (36) feet in length.
- b. Two-story detached accessory structures containing a permitted accessory dwelling unit shall not exceed one thousand (1,000) square feet in ground floor area, and no one horizontal dimension may exceed thirty-six (36) feet in length. See section 59-87(c)(1) for limits on maximum gross floor area of accessory dwelling units.

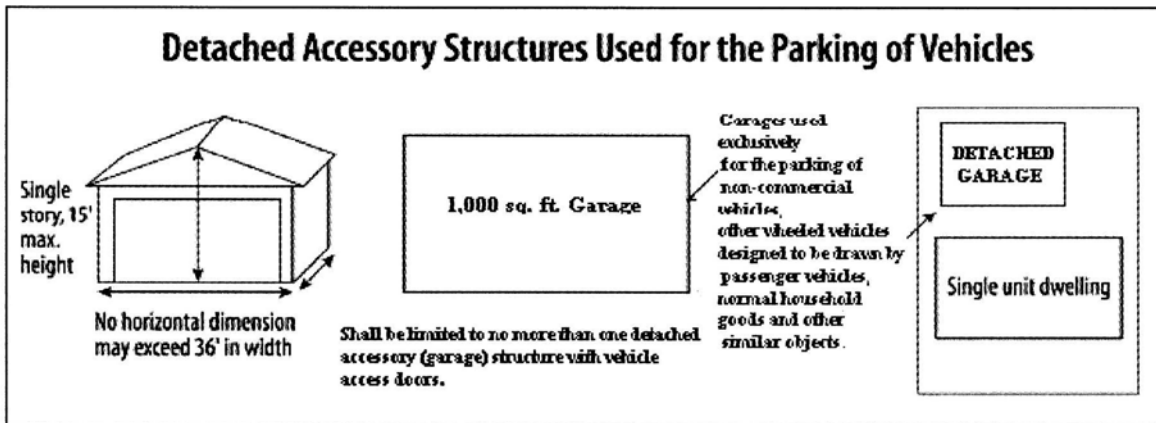


Figure 1

- (3) *Permitted number.* Shall be limited to no more than one detached accessory structure with vehicle access doors and any number of other detached accessory structures located on the zone lot; and

(4) *Materials.* Shall be constructed of materials that are compatible with the use by right and shall not be constructed from salvage doors, corrugated or sheet metal, non-durable materials or other materials as designated by the zoning administrator.

(d) *Attached accessory structures accessory to a single unit dwelling located in any residential zone district.*

(1) *Height.* Shall conform to the same requirements as the use by right;

(2) *Size.* Shall not exceed one thousand (1,000) square feet in area and no one horizontal dimension may exceed thirty-six (36) feet in length.

(3) *Permitted number.* Shall be limited to no more than one detached accessory structure with vehicle access doors and any number of other detached accessory structures located on the zone lot; and

(4) *Materials.* Shall be constructed of materials that are compatible with the use by right and shall not be constructed from salvage doors, corrugated or sheet metal, non-durable materials or other materials as designated by the zoning administrator.

(e) *Access and contiguity.* Except when used for a permitted accessory dwelling unit, any residential floor area contained within a second story located above an attached accessory structure shall be contiguous to and accessed only through other residential floor area contained within the principal residential structure. (see figure 2 below)

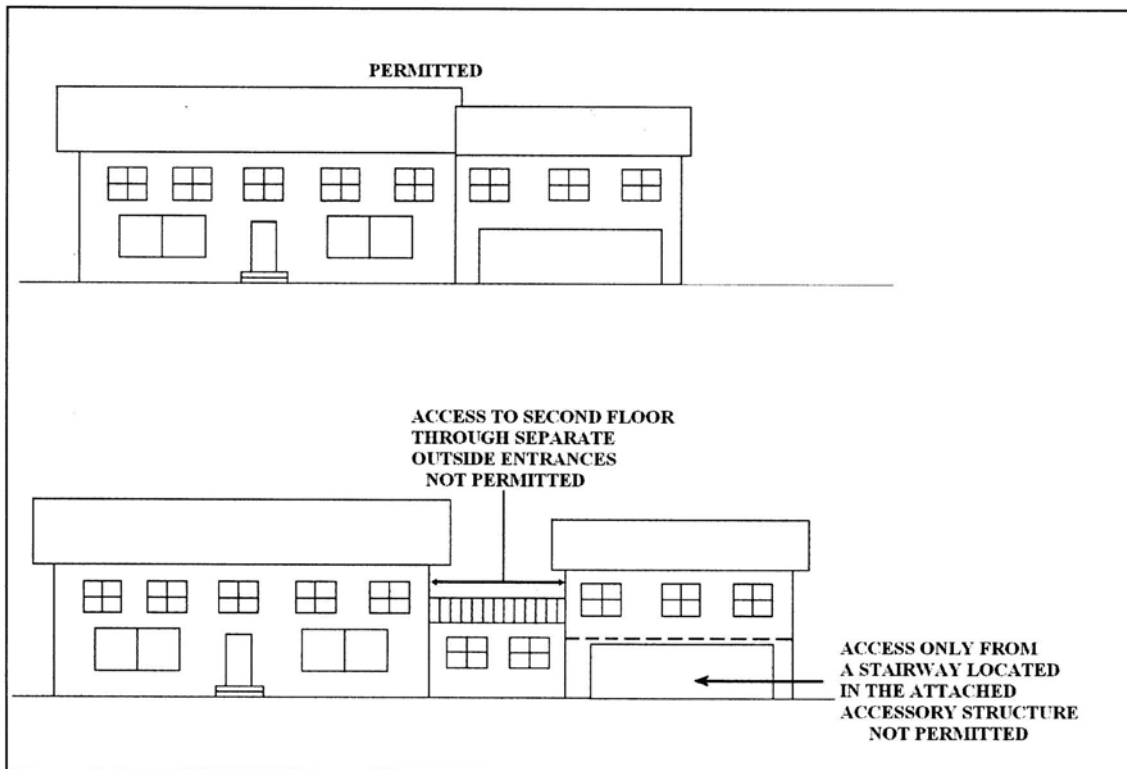


Figure 2

(f) *Vehicular access.* There shall be no more than three (3) doors on the zone lot that face a named or numbered street and are designed or used for vehicular access, nor shall the total width of all vehicle access doors on the zone lot that face a named or numbered street exceed a total cumulative width of twenty-eight (28) feet. (See figure 3 below.) For the purposes of this subsection 59-88(f), whether a garage door faces a name or numbered street shall be determined by extending a line the width of the garage door and perpendicular to it to the zone lot boundary. If any portion of said line touches the right-of-way of a name or numbered street at the zone lot boundary then said garage door faces a named or numbered street (see figure 4 below).

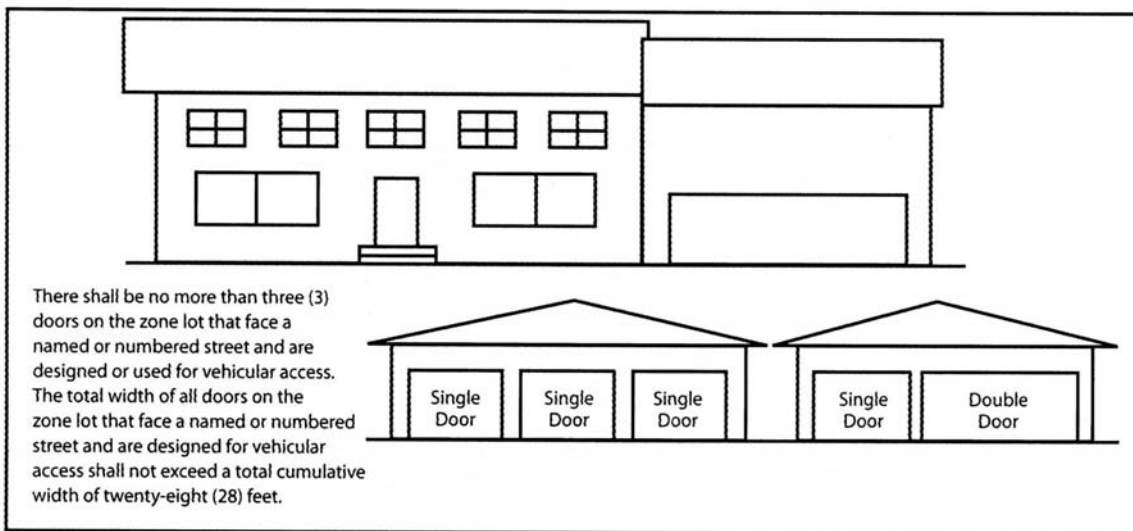
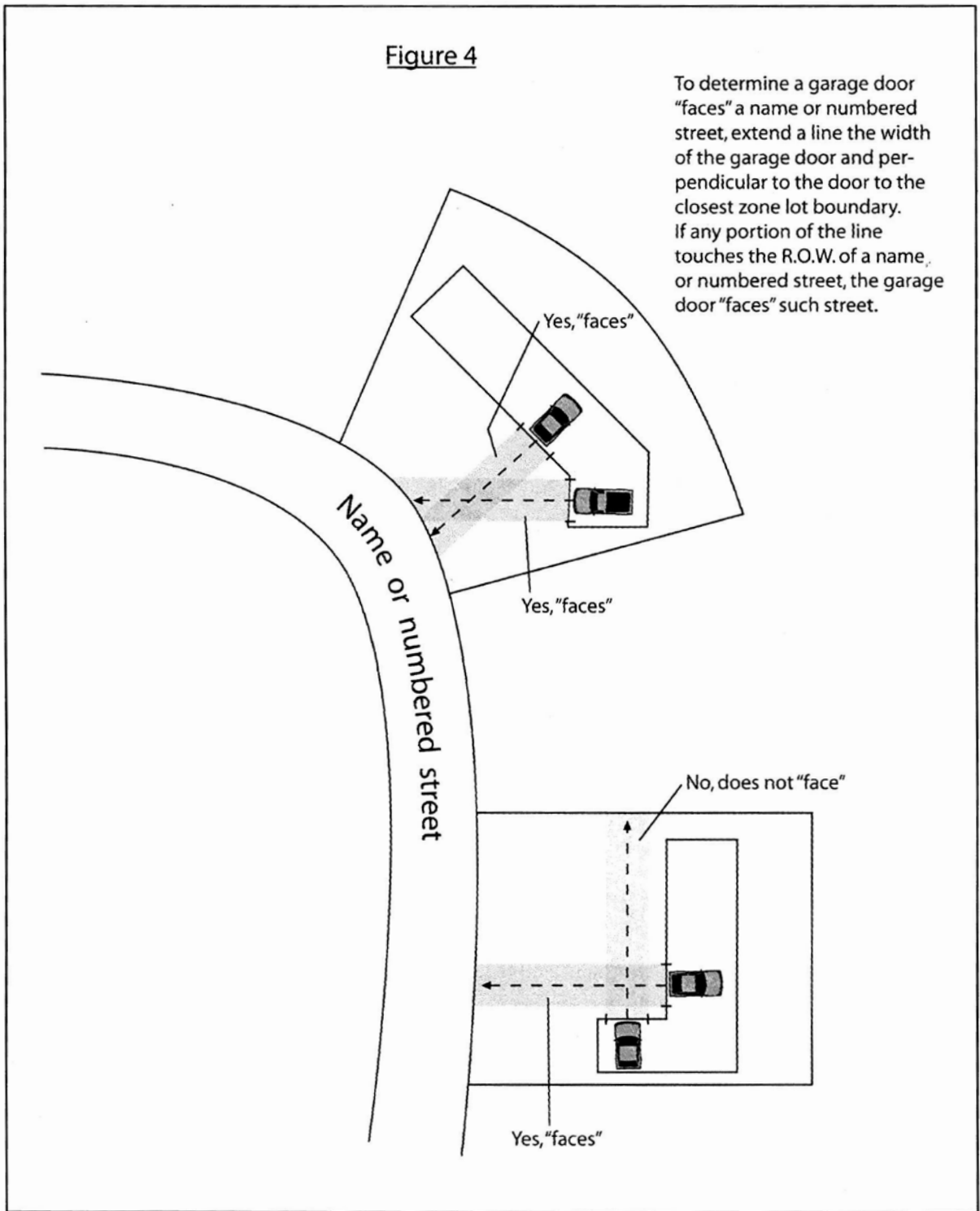


Figure 3



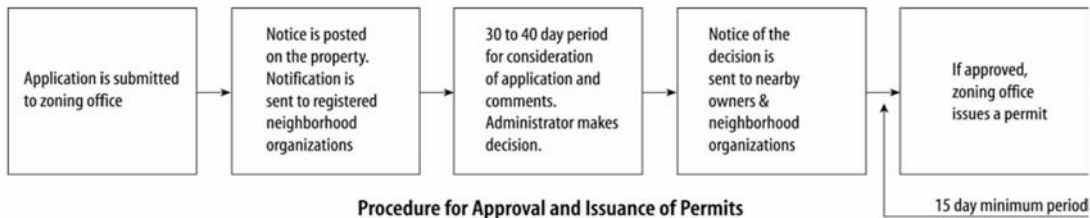
(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 244-07, § 5, eff. 6-8-07)

Sec. 59-89. Home occupations allowed.

Upon application to and issuance by the department of zoning administration of a permit therefor, the following uses may be operated as home occupations according to the zone district chart in a single unit dwelling or in each dwelling unit in a multiple unit dwelling and subject to the following limitations:

- (1) *Permitted home occupations:*
 - a. Adult care home;
 - b. Beauty shop;
 - c. Child care home, small; need not be enclosed;
 - d. Craftwork;
 - e. Custom dressmaking, millinery, tailoring, sewing of fabric for custom apparel and custom home furnishings;
 - f. Fine arts studio, in which are created only individual works of art. In the R-3 and R-3-X zone, the restoration of individual works of art is permitted subject to review by the fire department;
 - g. Foster family care;
 - h. Laundering, pressing;
 - i. Office, in which chattels, goods, wares or merchandise are not commercially created, displayed, exchanged, stored or sold;
 - j. Repairing of clocks and watches but not including the sale of such items;
 - k. Rooming and/or boarding, providing the single unit dwelling contains no more than one (1) kitchen. In the R-1 zone if the single unit dwelling is occupied by two (2) unrelated adults over the age of eighteen (18) years, one (1) roomer and/or boarder is allowed. In all other cases, not more than two (2) roomers and/or boarders are allowed;
 - l. Tutoring, of not more than four (4) students simultaneously;
 - m. Other similar home occupations as permitted by the zoning administrator according to the requirements and procedures explained below:
 1. Conditions for approval. In order to be approved the administrator must determine that:
 - i. The proposed use in no way diminishes the use and enjoyment of adjacent conforming properties;
 - ii. The proposed use will not alter the residential character of the subject property or reduce its future value as a residence; and
 - iii. The proposed use will not adversely affect the public health, safety or welfare.

2. Review process. Upon receipt of an application for such occupation, the provisions of section 59-41(b) shall be followed. In approving such applications the administrator may impose additional restrictions (regulating the hours of operation, the number of vehicle trips to or from the zone lot, etc.) to protect the value and enjoyment of adjacent conforming properties. Any approval shall be personal to the applicant while residing at the property specified in the application. If after the issuance of a permit, a written complaint is received by the zoning administrator, and evidence is found indicating a violation of any of the criteria, limitations or conditions, the zoning administrator shall immediately revoke the permit. Upon revocation of the permit, the activity will cease immediately and will not be operated unless the decision of the zoning administrator is overruled, upon appeal, by the board of adjustment.



Procedure for Approval and Issuance of Permits

(Ord. No. 468-05, § 9, eff. 7-15-05)

- (2) *Limitations on permitted home occupations.* All home occupations operated in a single unit dwelling or in a dwelling unit in a multiple unit dwelling shall be considered a single unit which may be operated only if it complies with all of the following conditions:
 - a. Is operated in its entirety within the single unit dwelling or dwelling unit and only by the person or persons maintaining a dwelling therein;
 - b. Does not have a separate entrance serving the home occupation from outside the building;
 - c. Does not display or create outside the building any external evidence of the operation of the home occupation except, for each street front of the zone lot on which the building is located, one (1) unanimated, nonilluminated flat or window sign having an area of not more than one hundred (100) square inches;
 - d. Does not utilize more than twenty (20) percent of the gross floor area, but not to exceed three hundred (300) square feet, in the single unit dwelling or dwelling unit; provided, however, that this limitation shall not apply to foster family care, adult care home, small child care home, craftwork or fine arts studio;

- e. Does not have any employees or regular assistants not residing in the single unit dwelling or dwelling unit;
- f. Is limited to the use of electric motors for power, with a total limitation of three (3) horsepower;

(3) Chart of home occupations as permitted by zone district.

An "X" indicates a permitted home occupation use.

| <i>Home Occupation / Zone District</i> | <i>R-0</i> | <i>R-1 R-2 R-2-A R-2-B</i> | <i>CCN R-3 R-3-X R-4 R-4-X</i> | <i>B-1 B-2 B-3 B-4 B-5 B-7 B-8 B-8-A B-8-G I-0 I-1 I-2 PRV Gateway</i> | <i>B-A-1</i> | <i>MS-1 MS-2 MS-3</i> | <i>R-MU-20 R-MU-30 C-MU-10 C-MU-20 C-MU-30 T-MU-30</i> |
|--------------------------------------------|------------|----------------------------------------|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|--------------|-------------------------------|----------------------------------------------------------------------------|
| Adult care home | X | X | X | | X | X | X |
| Beauty shop | | X | X | | X | X | X |
| Child care home, small | X | X | X | X | X | X | X |
| Craft work | | X | X | | X | X | X |
| Custom dressmaking | | X | X | | X | X | X |
| Fine arts studio | | X | X | | | X | X |
| Foster family care | X | X | X | | X | X | X |
| Laundering | | X | X | | X | X | X |
| Office | X | X | X | | X | X | X |
| Clock and watch repair | | X | X | | X | X | X |
| Rooming and/or boarding | | X | | | | X | X |
| Tutoring | | X | X | | X | X | X |
| Other similar home occupations | | X | X | | X | X | X |

(Ord. No. 660-05, § 5, eff. 9-16-05; Ord. No. 340-06, § 4, eff. 6-9-06)

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, § 10, eff. 12-2-03)

Sec. 59-90. Nonpark usage of public parks.

Notwithstanding the provisions of this chapter, the use of a structure meeting the conditions of section 2.4.7 of the Charter of the City and County of Denver shall be controlled by such Charter section.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-91. Mass transit railway system.

All mass transit railway system facilities except rail tracks, guideways, and overhead power lines, located within two hundred (200) feet of a conforming residential structure shall be subject to the site plan review procedure prescribed by article VIII (special zone lot plans for planned building groups) of chapter 59 (zoning).

(Ord. No. 361-03, § 3, eff. 5-23-03)

DIVISION 3. REGULATIONS ON SPECIFIC EFFECTS, USES AND STRUCTURES

Sec. 59-92. External effects of uses.

The following limitations shall apply to all uses and zone districts except for the following zone districts: the Platte River Valley (PRV) zone district and the industrial zones, all of which have separate regulations on external effects. Sections 59-92(1) (enclosure of uses) and 59-92(5) (outdoor storage and waste disposal) shall not apply to R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30 and T-MU-30 zone districts. If other zone districts have no provisions relating to external effects, then no external effect regulations apply to those districts.

- (1) *Enclosure of uses.* Every use, unless expressly exempted by this chapter, shall be operated in its entirety within a completely enclosed structure; the exemption of a use from the requirements of enclosure will be indicated by the phrase "need not be enclosed" appearing after any use so exempted.
- (2) *Vibration generated.* Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the zone lot on which the use is located.
- (3) *Emission of heat, glare, radiation and fumes.* Every use shall be so operated that it does not emit an obnoxious or dangerous degree of heat, glare, radiation or fumes beyond any boundary line of the zone lot on which the use is located.
- (4) *Noise.* Regulations on noise are found in chapter 36, R.M.C. and are administered by the department of environmental health.
- (5) *Outdoor storage and waste disposal:*
 - a. All outdoor storage of equipment for fuel, materials and products shall be enclosed by a fence, wall, hedge or other type of landscaping adequate to conceal such equipment from the adjacent property. Such enclosure shall meet fire department safety equipment.

- b. No materials or wastes shall be deposited upon a zone lot in such form or manner that they may be transferred off the zone lot by natural causes or forces.
- c. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.
- d. This provision applies to all residential zones, B-1 and B-A-1 zones and others as referenced:

No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground. Tanks or drums of fuel directly connecting with heating devices or appliances located on the same zone lot as the tanks or drums of fuel are excluded from this provision.

- e. This provision applies to all business zones, and other zones as referenced, excluding the B-1 and B-A-1 zone districts: No flammable gases or solids, combustible or flammable liquids or explosives shall be stored above ground except for the following as permitted and regulated by the fire department:
 - 1. Tanks or drums of fuel directly connected to heating devices or appliances located on the same zone lot as the tanks or drums of fuel;
 - 2. Vaulted tanks;
 - 3. Tanks containing compressed natural gas for the fueling of vehicles operated in association with a permitted use; and
 - 4. LP gas dispensing unit.

- (6) *Drainage:* Every zone lot shall provide and maintain proper drainage. Proper drainage is a system of drainage that: provides for adequate drainage of water away from foundations in order to prevent dampness in basements, walls, ceilings or floors; controls erosion; provides for natural or artificial drainage to adjacent public right-of-way, roadways or drainage infrastructure which have adequate drainage capacity to accept such flow or, when such drainage outlets are not available, provides drainage consistent with the historic and natural drainage patterns in a reasonable manner that will not adversely impact adjacent property. Drainage directed to the public right-of-way, roadways or drainage infrastructure shall be conveyed in a manner that complies with article XV, chapter 49 of the Revised Municipal Code (RMC) of the City and County of Denver.

(Ord. No. 723-06, § 1, eff. 10-10-06)

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-93. Parking of vehicles.

- (a) *On the public right-of-way.*
 - (1) The vehicles listed below are prohibited from parking for a period of time longer than that noted below during any given week on a public right-of-way adjacent to any property which is designated as a residential district or which contains a single unit or

multiple unit dwelling. This prohibition does not apply where such vehicle is engaged in rendering services in the immediate area, or where such vehicle is parked adjacent to a motel or hotel where the vehicle operator is a guest.

- a. A two-hour period.
 - 1. A truck exceeding six thousand (6,000) pounds empty weight; or
 - 2. A bus exceeding six thousand (6,000) pounds empty weight or twenty-two (22) feet in length; or
 - 3. An automobile trailer not attached to a licensed vehicle; or
 - 4. A truck-tractor or semi-trailer; or
 - 5. A disabled or inoperable vehicle.
- b. A twenty-four (24) hour period.
 - 1. A truck with an attached camper having a combined overall length exceeding twenty-two (22) feet; or
 - 2. A recreational vehicle exceeding twenty-two (22) feet in length; or
 - 3. An automobile trailer attached to a licensed vehicle.

(b) On private property in certain "R" zone districts. The following regulations shall apply to properties located in the RS-4, R-0, R-1, R-2, R-2-A and R-X zone districts, and to residential uses located in the R-MU-20, R-MU-30, C-MU-10, and C-MU-20 zone districts.

- (1) The vehicles listed below shall not be parked or stored on a zone lot, except that an automobile trailer or motorized recreational vehicle exceeding twenty-two (22) feet in length may be stored within a completely enclosed structure located so as to comply with all the requirements for the location of structures on the zone lot.
 - a. A truck exceeding six thousand (6,000) pounds empty weight; or
 - b. An automobile trailer, bus, or motorized recreational vehicle exceeding twenty-two (22) feet in length; or
 - c. A truck-tractor or semi-trailer.
- (2) Automobile trailers not exceeding twenty-two (22) feet in length and detached camper units shall be parked or stored only on the rear one-half of the zone lot; provided however, if the rear one-half of the zone lot does not abut an alley, such automobile trailers and detached camper units may be parked or stored on the front one-half of the zone lot if located so as to comply with front and side setback requirements for structures and are screened from the street and adjacent properties by a solid, sight-obscuring fence as high as the maximum height permitted in the district.
- (3) Limitation on parking in the front setback area. This restriction applies to the RS-4, R-0, R-1, and R-2 zone districts and to single-and two-unit multiple-unit dwellings located in the R-MU-20, R-MU-30, C-MU-10, and C-MU-20 zone districts. The required front setback space on zone lots fifty (50) feet in width or less shall be limited

to no more than two (2) parking spaces. Any zone lot more than fifty (50) feet in width shall be limited to fifty (50) percent of the required front setback space for parking and driveways. Driveways or off-street parking areas:

- a. Wherever a public sidewalk easement is located within a front setback, all driveways or off-street parking areas shall extend a minimum of twenty (20) feet beyond the sidewalk (as shown in figure 1.) so that vehicles parked in these areas do not obstruct the public sidewalk;

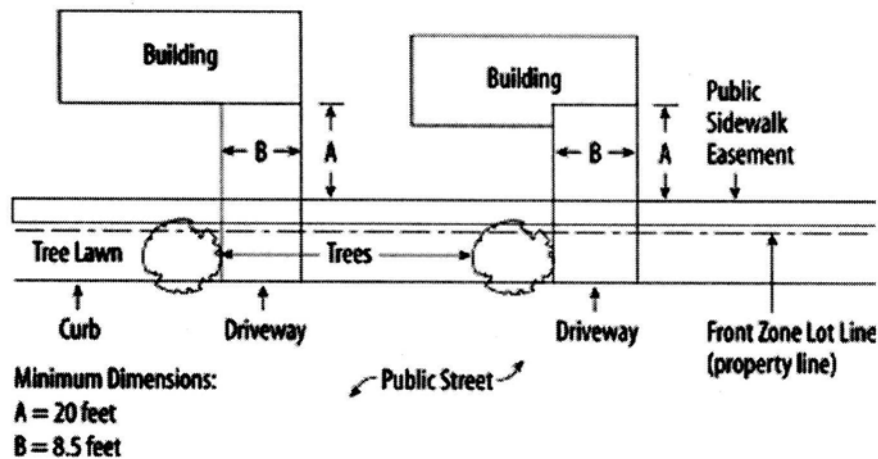


Figure 1

Off-street parking areas

(Ord. No. 895-03, § 11, eff. 12-2-03)

- b. The zoning administrator may authorize exceptions to the requirements for driveways or off-street parking areas that are designed in such a manner that vehicles parked in these areas do not obstruct the public sidewalk; and
- c. Parked vehicles shall not obstruct any public sidewalk in any manner whatsoever.
- d. Other limitations on front setback area parking. Parking is prohibited in the front setback space of properties located in the R-3, R-3-X, R-4 and R-4-X zone districts. Refer to those district regulations for details.

(c) *Vehicle storage, vehicle repair and vehicle maintenance in residential districts.*

(1) *Vehicle storage:* The parking or storage of inoperable motor vehicles in any residential zone district shall be limited by all of the following:

- a. Occupants of a dwelling unit may store their personally owned inoperable motor vehicle and/or auto parts on the same zone lot as the dwelling unit, provided, however, that said vehicle and/or auto parts shall be stored inside a completely enclosed garage structure;

(Ord. No. 625-05, § 5, eff. 9-2-05)

- b. Parked or stored inoperable motor vehicles shall not occupy off-street parking spaces required by section 59-586 (required off-street parking);
- c. Parked or stored inoperable motor vehicles are limited to one (1) such vehicle per dwelling unit; and
- d. Parked or stored inoperable motor vehicles shall be included in the calculation of the total maximum number of vehicles permitted for a dwelling unit.

(2) *Vehicle repair and maintenance:*

- a. Occupants of a dwelling unit may perform engine, transmission and other similar repairs of their personally owned motor vehicles from 8:00 a.m. to 9:00 p.m. inside a completely enclosed garage structure located on the same zone lot as the dwelling unit, excluding, however, any auto body and fender work, or the painting of motor vehicles;
- b. Occupants of a dwelling unit shall not repair motor vehicles belonging to another person or persons that do not reside in the same dwelling unit;
- c. Occupants of a dwelling unit may perform customary maintenance on their personally owned motor vehicles from 8:00 a.m. to 9:00 p.m. outdoors on a driveway or parking area located on the same lot as the dwelling unit. For the purpose of this section customary maintenance is defined as: washing; polishing; fluid changes; greasing; tire changing; brake repair; muffler replacement; engine tune-up; flushing of radiators; and other activities of minor repair and servicing;
- d. Occupants of a dwelling unit performing vehicle maintenance and repair shall not permit vehicle fluids to be discharged onto any land, driveway or parking area; and
- e. Occupants of a dwelling unit shall immediately remove all external evidence of vehicle repair and maintenance activities.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-94. Use of amusement devices.

No amusement device serving as an accessory use to a use by right located within one thousand (1,000) feet of a school meeting the compulsory education laws of the state shall be operated by children under the age of eighteen (18) years old during the following described periods: between 8:00 a.m. and 4:00 p.m., Monday through Friday, from September 1 to June 15, excluding holiday vacations observed by such schools.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Sec. 59-95. Fence and wall materials near a residential district.

The materials used for fences and walls located within two hundred (200) feet of a residential district shall consist of wood, brick, masonry, wire mesh, metal bars not exceeding one and one-half (1.5) inches in diameter or other materials which may be approved by the zoning administrator. If any part of a fence is located within two hundred (200) feet of a

residential district, the provisions of this section shall apply to the entire fence. Salvaged doors and corrugated or sheet metal shall not be allowed. Notwithstanding the provisions of section 59-632, nonconforming structures, of the Revised Municipal Code, existing fences and walls which have been constructed of the prohibited materials listed above or other materials not approved by the zoning administrator may not be maintained and any such fences and walls shall be immediately reconstructed of approved materials or removed; provided, however, if such fence or wall is required by some other provision of the Revised Municipal Code, such fence or wall shall be reconstructed with approved materials.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 363-06, § 3, eff. 6-16-06)

Sec. 59-96. Special limitations on bulk planes and building heights.

(a) *Bulk plane limitations:* Within one hundred seventy-five (175) feet of any zone lot designated as RS-4, R-X, R-0, R-1, R-2, R-2-A or R-2-B (hereinafter called the protected districts), no part of any structure (except church spires, church towers, flagpoles, mast or pole antennas, chimneys, flues, vents, flush mounted solar panels or accessory water tanks) located on a zone lot designated as R-3, R-3-X, R-4, R-5, H-1-A, H-1-B, B-1, B-A-1, B-2, B-A-2, B-3, B-A-3, B-4, B-A-4, B-8, B-8-A, B-8-G, CCN, R-MU-20, R-MU-30, C-MU-10, C-MU-20, C-MU-30, I-0, I-1, I-2, O-1, O-2, OS-1, MS-1, MS-2, MS-3 or P-1 (hereinafter called the controlled districts) shall project up through bulk limits which are defined by planes extending up and over the zone lot at an angle of forty-five (45) degrees with respect to the horizontal and which planes start at horizontal lines which are co-directional to the district boundary lines separating the zone lot from the protected district and pass through either of the points specified below, whichever results in a greater above-ground dimension for the bulk plane starting line:

(Ord. No. 53-08, § 5, eff. 2-8-08)

- (1) Ten (10) feet above the midpoint of each such district boundary line.
- (2) If the controlled district is an R-3 zone district, then the above ground horizontal line specified for area A of the protected district, as applicable.

The limitation of this subsection shall not apply in situations where the zone lot designated as one (1) of the protected districts contains a high-rise building.

(b) *Height restrictions:* Within one hundred seventy-five (175) feet of any zone lot in a protected district no building in a controlled district, except the MS-3 district shall have a height greater than seventy-five (75) feet. The restriction of this subsection shall also apply to any zone lot designated as R-2-A when such zone lot is located within one hundred seventy-five (175) feet of another zone lot designated as RS-4, R-X, R-0, R-1, R-2 or R-2-B. The restriction of this subsection shall not apply in situations where the zone lot within the protected district contains a high-rise building.

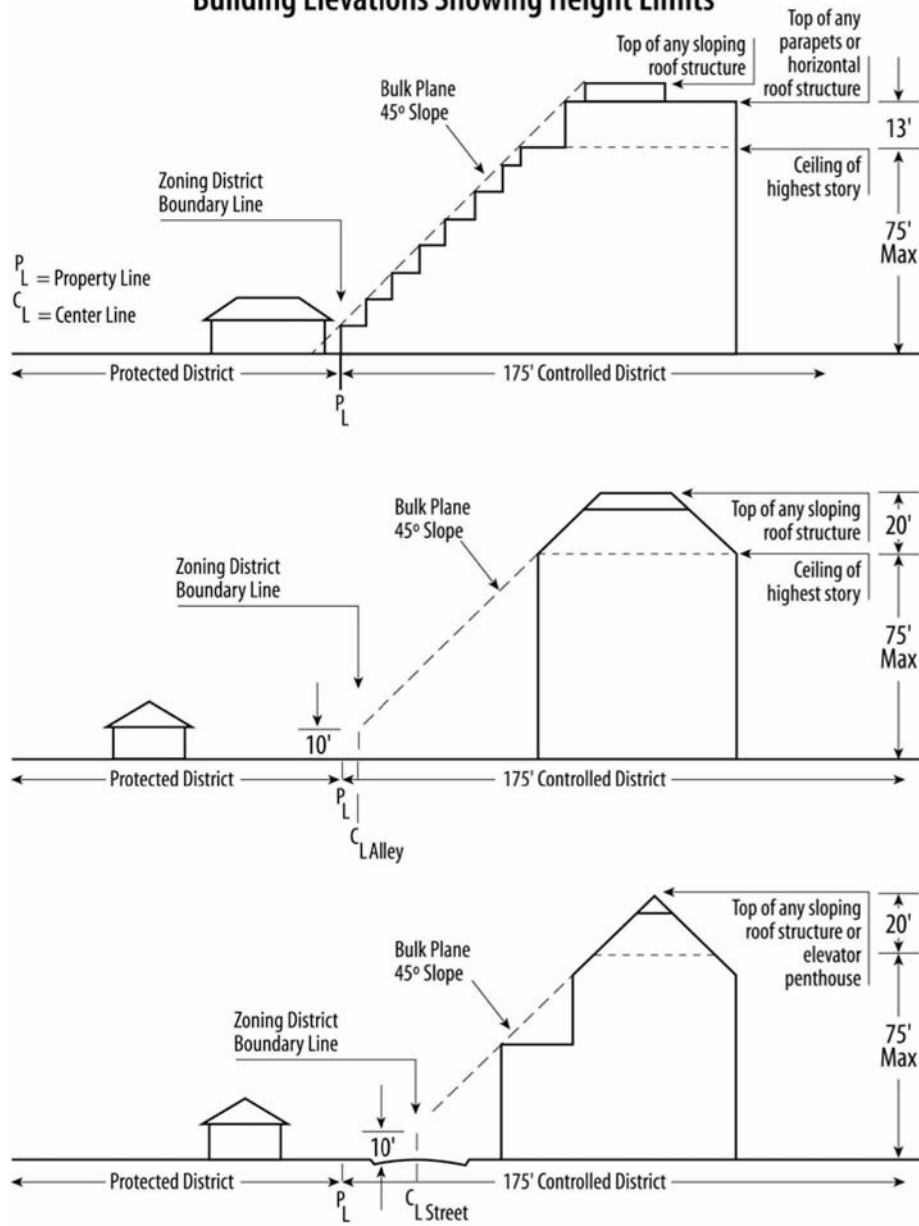
(c) *Effect of the subsection on current projects:* Nothing herein contained shall require any change in the plans or construction of a building for which a zoning permit has been legally issued prior to or during a thirty-day period following the effective date of the ordinance from which this subsection is derived; providing, however, that a building permit has been legally

issued within six (6) months following the issuance of a zoning permit. The zoning administrator may extend the period for obtaining a zoning permit for an additional sixty (60) days if necessary in order for the applicant to comply with the requirements of another public agency. The zoning administrator may, also, extend the period for obtaining a building permit for an additional six (6) months if due diligence is demonstrated in obtaining such a permit.

(d) *Measurement of building height:* For the purpose of this subsection the height of buildings shall be the vertical distance from the ceiling of the highest story used for human occupancy to the average elevation of the corners of the proposed building at the finished grade. Parapets and horizontal roof structures may extend a maximum of thirteen (13) feet above such ceiling. Sloping roof structures, screening devices and rooftop features such as mechanical equipment, elevator penthouses and venting systems may extend a maximum of twenty (20) feet above such ceiling. Flush mounted solar panels may be mounted to any roof regardless of height. The horizontal area of rooftop features shall not exceed twenty-five (25) percent of the horizontal area of the highest floor used for human occupancy. The ceiling shall be defined as the horizontal surface which establishes the upper limit of a story used for human occupancy. The term "ceiling" also refers to a drop or suspended ceiling.
(Ord. No. 53-08, § 5, eff. 2-8-08)

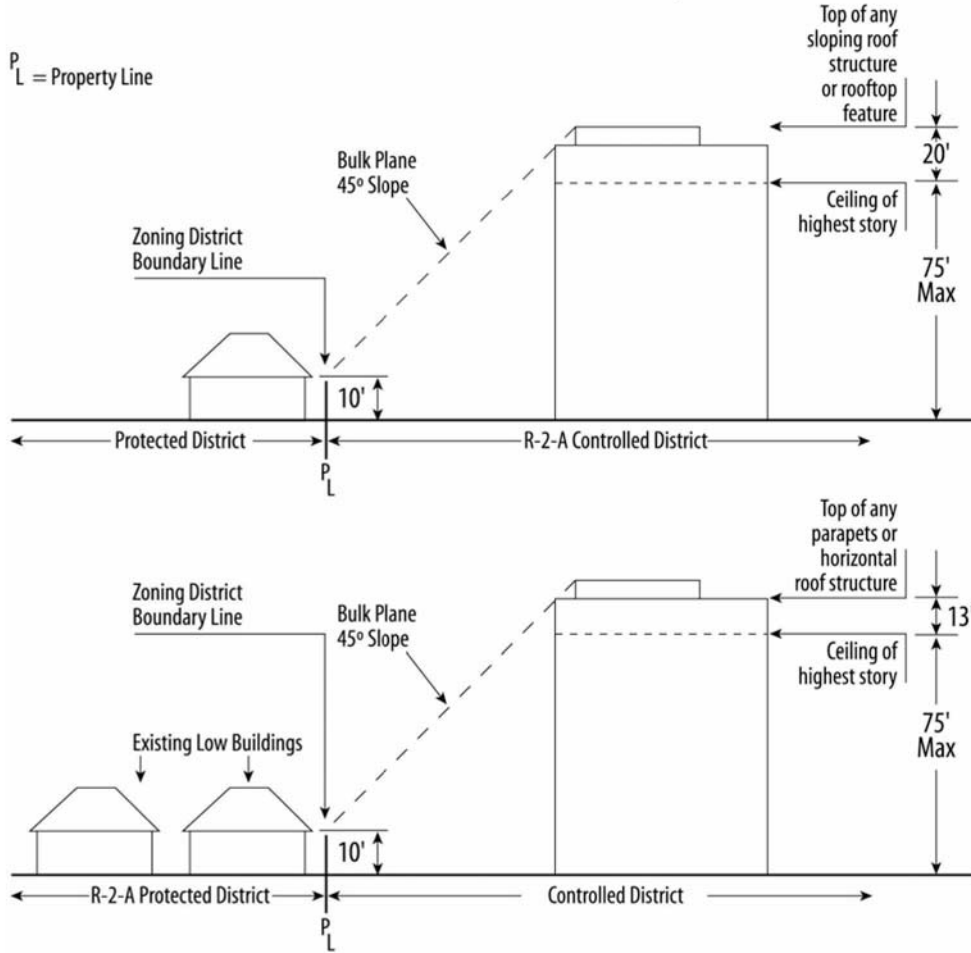
(e) *Illustrations.* The following two (2) pages contain building elevation diagrams which generally explain the effect of the above regulations on building location, size and height. For specific applications to individual properties, interested parties are advised to contact the zoning office.

Special Limitations on Building Heights Building Elevations Showing Height Limits



The sketch above generally illustrates the Setback and Bulk Regulations for most buildings containing a use by right.
The Code language prevails if any variation occurs between the illustration and Code language.

Special Limitations on Building Heights Alternative Situations for R-2-A Development



Protected Districts

| |
|-------|
| RS-4 |
| R-X |
| R-0 |
| R-1 |
| R-2 |
| R-2-A |

Controlled Districts

| | | |
|-------|-------|-----|
| R-2-A | B-2 | I-0 |
| R-3 | B-A-2 | I-1 |
| R-3-X | B-3 | I-2 |
| R-4 | B-A-3 | O-1 |
| R-5 | B-4 | O-2 |
| B-1 | B-A-4 | P-1 |
| B-A-1 | B-8 | |

Note 1. R-2-A can be either a protected district or a controlled district depending on the character of the existing development on a specific zone lot.

Note 2. MS-1, MS-2 and MS-3 are controlled districts only for special limitations on bulk plane and not for special limitations for building height.

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 895-03, §§ 12, 13, eff. 12-2-03; Ord. No. 660-05, §§ 6, 7, eff. 9-16-05; Ord. No. 97-07, § 1, eff. 3-9-07)

Sec. 59-97. Site plan required for development of lots over 10,000 square feet.

In any residential, main street or business district, the development of a single structure containing a use by right on a zone lot with an area exceeding ten thousand (10,000) square feet shall be subject to a site plan review according to the provisions of article VIII (special zone lot plans for planned building groups) of chapter 59 (zoning).

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 625-05, § 6, eff. 9-2-05; Ord. No. 660-05, § 8, eff. 9-16-05)

Sec. 59-98. Limited gaming prohibited.

It shall be a violation of this chapter for any person to operate limited gaming as defined by article XVIII, section 9, of the Constitution of the State of Colorado in the Platte River Valley (PRV) Zone District. In addition, it shall be a violation of this chapter for any person to operate or use a slot machine as defined by the above-referenced article and section in the Platte River Valley (PRV) Zone District.

(Ord. No. 361-03, § 3, eff. 5-23-03)

Secs. 59-99, 59-100. Reserved.